

June 20, 2006



**TRANSCRIPT
JUNE 20, 2006**

PRESENT

MONTGOMERY COUNTY COUNCIL

George Leventhal, President	Marilyn J. Praisner, Vice President
Phil Andrews	Howard Denis
Nancy Floreen	Michael Knapp
Thomas Perez	Steven A. Silverman
	Michael Subin



June 20, 2006

1 [A MOMENT OF SILENCE]

2
3 Council President Leventhal,
4 Thank you very much. Ms. Lauer, are there any agenda or calendar changes today?

5
6 Linda Lauer,
7 We're adding a District Council session so that we can act on a resolution to establish a
8 public hearing for the Damascus Sectional Map Amendment for July 25th at 1:30 p.m.

9
10 Council President Leventhal,
11 Very good. Do we have any petitions?

12
13 Linda Lauer,
14 One, we have received a petition from citizens opposing the demolition of the COMSAT
15 building in Gaithersburg.

16
17 Council President Leventhal,
18 Thank you. Are there any minutes for approval?

19
20 County Clerk,
21 Yes, you have the minutes of May 8th, 9th, 10th, 16th, 17th and 18th for approval today.

22
23 Council President Leventhal,
24 Ms. Praisner has moved and Mr. Knapp has second a motion to approval minutes of
25 May 8th, 9th, 10th, 16th, 17th and 18th, those in favor will signify by raising their hands.
26 it is unanimous among those present. We turn now to the Consent Calendar. Need a
27 motion to approve the Consent Calendar and a second?

28
29 Councilmember Andrews,
30 Second.

31
32 Council President Leventhal,
33 Okay. Ms. Praisner has moved and Mr. Andrews has seconded the Consent Calendar.
34 Let me comment briefly. There are some people here in the audience who are
35 advocates for the Healthy Maryland Initiative which would call for \$1 increase in the
36 state legislature on the cigarette tax used to pay for a variety of programs to improve
37 access to health care for those without health insurance. I think this is very consistent
38 with the work that we've been doing here in the County to expand access to health care.
39 I commend our County Executive, Doug Duncan, who has also endorsed this initiative
40 and is working to expand support for it in the state legislature in the coming session, this
41 resolution is being introduced today and will be before us again on the Consent
42 Calendar next week with the consent of all Councilmembers, it is sponsored by the
43 three members of the Health & Human Services Committee. Mr. Andrews?

44
45 Councilmember Andrews,

June 20, 2006



1 Thank you, Mr. President. I'd like to comment on Item -- let's see 2F. And I'd actually
2 like to request a separate vote on this Item for the historical record. We have a terrific
3 appointment to the new Assistant Chief position for Management...

4
5 [LAUGHTER]

6
7 Councilmember Andrews,
8 We have Mr...

9
10 [LAUGHTER]

11
12 Councilmember Andrews,
13 ... we have CEO Bruce Romer with us and the nominee Captain Drew Tracy to be the
14 new Assistant Chief for Management and Services Bureau. I have been an admirer of
15 Captain Tracy for a long time as have just about everybody in this room. He has served
16 in all five, he has served in all five of the district stations. The 6th district was recently
17 created out of the 5th. He's been the Emergency Incident Commander, the Chief of
18 Special Investigation's Division, and the Commander in Silver Spring, and has served in
19 numerous other capacities as well. He's, as some of you know, a holder of the Fittest
20 Cop In America title, at least once, maybe twice, and has been a real roll model for
21 many others in the department, and we're lucky to have him be appointed to this very
22 important position. Very challenging position. Many difficult challenges await him with
23 the Emergency Communication's Center and other management challenges. We know
24 he is in a great position to tackle them and I'd like to give Mr. Romer a chance to say a
25 few words to be said about the nominee.

26
27 Bruce Romer,
28 Certainly, I would underscore everything Councilman Andrews said. The Executive was
29 very pleased to make this appointment coming really on the recommendation of Chief
30 Manger. We've all known Drew for quite some time and it was a decision that was a
31 pleasant one to make and we certainly commended him to you and we appreciate your
32 interviewing him and his consideration of his confirmation and we ask for your
33 confirmation and we believe that this puts us on a great course going forward.

34
35 Councilmember Andrews,
36 You like to say anything, Commander?

37
38 Captain Drew Tracy,
39 Yes.

40
41 [LAUGHTER]

42
43 Councilmember Praisner,
44 Never at a loss for words.

June 20, 2006



1 Captain Drew Tracy,
2 They told me to make it short and I will. First of all I'd like to thank Mr. Romer, obviously,
3 Chief Manger and our County Executive Doug Duncan for supporting me and I'd like to
4 thank the men and women behind me also for supporting me, and I'd like to thank Bill
5 O'Toole because he's had a great career here, he was acting Chief, he's done a lot for
6 this department, and he's going to move on into another venue with policing, and I'd like
7 to thing thank him. I think I bring a lot to the position, but think I have a lot to learn in this
8 position and I'm ready to learn, ready to give it 100%, and ready to go from here. So I
9 want to thank you for your support and I'll turn it back over.

10
11 Councilmember Andrews,
12 I think there's someone sitting behind you?

13
14 Captain Drew Tracy,
15 Oh, this is my wife. This is my wife, Julie Tracy and we have our 25th anniversary
16 coming up and we're actually going to do a vacation and I told her to select the venue
17 so we'll see where we go from there.

18
19 Councilmember Andrews,
20 Very good. I think it's a wonderful appointment. I would move confirmation.

21
22 Unidentified Speaker,
23 Second.

24
25 Council President Leventhal,
26 Okay, we'll take that vote up first. Look forward to working with our new Assistant Chief.
27 Those in favor of Mr. Tracy's appointment will signify by raising their hands. It is
28 unanimous among those present.

29
30 Councilmember Andrews,
31 Congratulations.

32
33 [APPLAUSE]

34
35 Councilmember Andrews,
36 I, too, would like to echo the new Assistant Chief said about Assistant Chief O'Toole.
37 Chief O'Toole has served this department for a long time in many, many positions
38 extremely well and we'll miss you. Good luck.

39
40 [APPLAUSE]

41
42 Council President Leventhal,
43 All right. Thank you Chairman Andrews. Now before the Council are Items "A" through
44 "E" on the Consent Calendar. Is there any further discussion? I don't see any. Those in



June 20, 2006

1 favor of the Consent Calendar Items "A" through "E" will signify by raising your hands. It
2 is unanimous among those present. We now, is my microphone on?

3
4 Councilmember Praisner,
5 Yeah.

6
7 Council President Leventhal,
8 Okay. We now have a resolution to establish a public hearing for the Damascus SMA
9 for July 25th at 1:30. I need a motion to that effect, Mr. Knapp?

10
11 Councilmember Praisner,
12 Second.

13
14 Council President Leventhal,
15 We're just establishing a public hearing on July 25th. The motion was made by Mr.
16 Knapp and seconded by Ms. Praisner. Those in favor of setting public hearing date will
17 signify by raising their hands. It is unanimous among those present. Okay, Dr. Tillman
18 isn't here yet, we're going to move into legislative session. Do we have a legislative
19 journal for approval?

20
21 County Clerk,
22 Yes, you have the journal of May 9th, 17th and 25th.

23
24 Councilmember Praisner,
25 Move approval.

26
27 Council President Leventhal,
28 Ms. Praisner has moved and Mr. Denis has seconded the approval of legislative journal.
29 Those in favor will signify by raising your hand. Raise your hand Mr. Silverman. Mr.
30 Silverman, raise your hand. There we go.

31
32 Councilmember Praisner,
33 No, you can't vote twice, Steve.

34
35 Council President Leventhal,
36 It is unanimous among those present. Okay we have three bills before the Council for
37 introduction. Expedited Bill 27-06, taxicabs amendment with the public hearing
38 scheduled for July 11th. Bill 28-06, I'm sorry, the first one was expedited Bill 27-06. The
39 second one is Bill 28-06, procurement, health insurance presence. Public hearing
40 scheduled for July 11th. Bill 29-06, Housing Advisory Commission's establishment.
41 Public hearing scheduled for July 11th. Without objection the bill's are introduced. Mr.
42 Silverman?

43
44 Councilmember Silverman,

June 20, 2006



1 Thank you, Mr. President. I just wanted to comment very briefly on the Housing
2 Commission. We have 90 boards and commissions, give or take a few in this County.
3 And we've got some that overlap in terms of areas of responsibility, but we haven't
4 apparently had in this County, a Housing Commission advising the Executive or the
5 Council on housing policy in 25 years or so. The purpose of this commission, in my
6 view, is not to meet on on a monthly basis, as many of our groups do and make their
7 comments known about what they think we ought to be doing. I would see this more as
8 a high-level commission where we tap into the national talent that happens to live in
9 Montgomery County working on housing issues. So that we'll truly have a best-practice
10 commission that will be able to make specific recommendations about our housing
11 challenges. And hopefully, that's the direction that the appointments will end up going.
12 Thank you.

13
14 Council President Leventhal,
15 Ms. Praisner?

16
17 Councilmember Praisner,
18 I only had one comment, having gone through boards and Committees and my only
19 concern is referring to this as a commission may very well lead folks to confuse it with
20 the Housing Opportunities Commission. And lead to confusion as to role and
21 responsibility and I wonder through the public hearing process if we could look at some
22 other way of referring to this group so it isn't confused with the Housing Opportunities
23 Commission.

24
25 Council President Leventhal,
26 Mr. Andrews?

27
28 Councilmember Andrews,
29 Thank you, Mr. President. I want to comment, briefly, on Bill 28-06. Which would
30 provide an incentive for companies that are bidding on Montgomery County contracts to
31 provide health insurance by providing a 10% preference in the bidding for companies
32 that provide health insurance that meets a certain standard. This Bill is being sponsored
33 by Councilmembers Perez and myself and President Leventhal and I think it is an
34 important Bill because I think we need to do everything possible to encourage the
35 provision of health insurance which continues to be a huge problem in our community, a
36 lack of health insurance, that is, and around the country. So I look forward to working
37 with my colleagues on this legislation and thank you for your co-sponsorship, Mr.
38 President.

39
40 Council President Leventhal,
41 Thank you, Mr. Andrews. Okay, there are no further comments on the introduced Bills
42 as we said without objection, they are introduced. At this point on the agenda, we were
43 to hear from Dr. Tillman. She's not here and I guess we could proceed into the work
44 session on Workforce Housing. Are all necessary staff here for that? Can we get them
45 here? Okay. Shall we take a five minute recess? Okay. Five minutes, guys. Come back



June 20, 2006

1 and let's keep it rolling this morning, we've got a crowded agenda. So, Dr. Tillman isn't
2 here we're ready to go into the workforce. Five minute recess.

3
4 [MUSIC]

5
6 Council President Leventhal,
7 We'll do workforce housing after Dr. Tillman is done in about 25 minutes. Okay, Dr.
8 Tillman, greetings, I know I owe you a phone call yesterday, it got away from me, but
9 we'll connect. Glad your here and we know you have a lot on your plate, and so I'll ask
10 for the attention of my colleagues and let's hear your report.

11
12 Dr. Ulder Tillman,
13 I'm going to give you some updates just on several items today and then leave time for
14 you to ask me questions. In terms of the progress of the Montgomery Cares which is the
15 program to deliver primary care and prescriptions to 40,000 uninsured low-income
16 residents of Montgomery County by 2010, I do want to report to you that from my latest
17 third quarter reports from all of our clinics that we're on target to meet our goal to serve
18 some 13,000 individuals by the end of this fiscal year, June 30th. Our next goal will be
19 to serve an additional 4,000 in the next fiscal year. The Montgomery Care's Advisory
20 Board which was created by ordinance that you passed to have a 15-member
21 Committee. We have now completed interviews and we've interviewed some 20 people
22 for that advisory board. We've made recommendations. That is now with the County
23 Executive to make appointments. It is the goal that you will receive those appointments
24 while you are in session at this time. So that you will be able to review and make your
25 confirmations. If that goes according to schedule then that board will most likely have its
26 first meeting in September. We're not going to try to do August with all of the various
27 vacations but that is the goal. So you should be getting those appointments shortly.

28
29 Council President Leventhal,
30 I assure you that no elected officials will be taking vacation this year in August.

31
32 Dr. Ulder Tillman,
33 But we want to get your attention while we can. Okay? The...well I'll leave time for any
34 other questions about Montgomery cares. In terms to have maternity partnership, which
35 has had a number of challenges in terms of meeting the volume, as well as capacity, in
36 terms of the number of providers, we have successfully been meeting with the Adventist
37 Healthcare to come in and join Holy Cross Hospital in terms of providing care to
38 uninsured low-income pregnant women, and they, Washington Adventist has signed an
39 agreement that they will begin delivering services to this population July...let me think,
40 yes, July 17th. And we have been successfully negotiating with Shady Grove Hospital.
41 They had space constraints. We are moving to make space available to them. Many of
42 you may recall, if, I should back up. Holy Cross Hospital essentially was being
43 overloaded with the number of women who were coming for care. They have sent
44 letters stating that they would limit the number of uninsured women that they were
45 serving in the partnership to some 1500. We were approaching more then 1900 at that

June 20, 2006



1 point in time. And they also stated they would serve women only south of Rockville. And
2 that would mean that they would be leaving the Piccard Drive facility that the County
3 has given to them to serve these women. We've been negotiating with Shady Grove
4 Adventist Healthcare. We're moving quickly to have the lease agreement signed off so
5 they can occupy the space and they will be prepared to move in and serve women
6 during July or August so by the end of August they should be up and running as well. In
7 these commitments, Holy Cross Hospital has stated they will limit, as I said, to 1500
8 women a year which translated to about 125 women a month. Ordinarily, they were
9 seeing upwards of 180 or 185. We have Washington Adventist who has committed to
10 serving 500 women. We have Shady Grove Adventist which has committed to serving
11 some 200, so that we'll just be meeting the goal of serving the existing women. We are
12 projecting seeing 2,350 next fiscal year. We have been fortunate that the state of
13 Maryland is prepared to award to Montgomery County some \$1.1 million in immigrant
14 health care. We have submitted that application, which was due on the 15th of June.
15 And with those funds, we will be able to make it possible for these additional hospitals to
16 participate. It means that we'll be increasing the reimbursement rate from \$585, which it
17 is now, which ordinarily would have gone to about \$602 per person, with the next fiscal
18 year. We are going to be increasing that to \$895. Which will make it possible for us to
19 just about approach a 50% contribution from the County, along with the patient's co-pay.
20 In terms of sharing into the cost of this program. That will enable the other two hospitals
21 to meet some of their challenges as well as to be more equitable with Holy Cross
22 Hospital in its participation. But I will say, again, that we are barely going to be meeting
23 the capacity mark to serve 2,350 women and we may well be short by 150. We met
24 yesterday with Montgomery General Hospital. They are interested, they are going to be
25 meeting with the obstetricians this is Wednesday evening and will get back to us in term
26 of what they are able to do. They have the labor and delivery rooms, but they don't have
27 any clinics, and so they're working on another model to see if women can be seen by
28 private Docs. and then be channeled into our system, so we'll work through that. But
29 we're making significant progress here. I will say to you now that in terms of negotiating
30 that rate for our hospitals, that with our current funding, we are anticipating that we'll be
31 short some \$600,000 for FY '07, so we'll be coming back to you to give an update of
32 how we're progressing with that. In terms of dental services for the uninsured. We had a
33 session earlier in the year with a hearing that Montgomery Volunteer Dental Clinic
34 would be closing their doors. We had negotiated before for them to extend that closure
35 to the end of June. They are still on track to be going out of business on June 30th. We
36 have submitted a proposal to County Council in the last budget session and
37 unfortunately, it was your decision not to vote on that or not to vote favorably on that
38 supplement. So, therefore, we have in our base about \$82,000 for oral health services
39 to this population, aside for what we have in our pilot for Montgomery Care. We're trying
40 our best at this point in time to develop some services that we can continue at the
41 Colesville Health Center site where Montgomery Volunteer Dental was. It means at this
42 point in time, that the best that we are going to be able to do is to provide emergency
43 dental services three days a week. And we are still trying to work out out of department
44 funds in terms of having a Dentist who is there and see if we can continue some
45 volunteer Dentists. But I will not state at this time that we'll be able to serve some 700

June 20, 2006



1 people because we certainly don't have any idea what we're going to be able to do
2 other than to be opened three days a week for emergency dental services. And that is,
3 at this point in time, we're on track to have six months of funding so we're short some,
4 90...I think it's \$96,000 to do it for the full year in that format. But that is the program that
5 I have concerns about but that's the best we can do under the circumstances. We have
6 a new endeavor that is underway and we call it "The Community Health Improvement
7 Plan." Periodically, Montgomery County probably, about every five years, has done a
8 comprehensive Countywide health assessment. And we are preparing to do that again.
9 In part from the concerns about a proposed relocation of Washington Adventist Hospital
10 and when it was brought up we need more data and information to look at this. We have
11 an RFP that is scheduled to go out once we have some final touches and input from
12 some others, but we have reviewed this with procurement with legal, with the Assistant
13 CAO and the CAO. And we are on track for doing a major community Countywide
14 assessment, health assessment, that will include an Advisory Group that will have input
15 and we have the goal of setting into motion a system that will be self-sustaining, so that
16 we'll not have to do an every five year assessment but it will be a continual data-
17 gathering, data-assessment and having input from stakeholders on terms to have
18 results and the recommendations, if that goes as planned and on schedule, we'll have
19 products from that community health assessment by the end of January, which will us
20 sufficient background information if Washington Adventist chooses to file, again, for
21 relocation. They have an opportunity to do that come next March, 2007. And once their
22 letter of intent, once their application is in April and is what the Health care Commission
23 calls docketed, then there's only a 30-day window to provide comments. We have
24 another RFP that set to go out in the fall of this year to obtain a Contractor that will be
25 prepared to do that work if they do file again. And we'll have the combined information
26 from the Community Health Assessment as well as the Contractor to do that work. So
27 we're just getting ready for FY '07 in that respect. So, I will stop there and answer
28 questions. I'm sure you have a number of them.

29
30 Council President Leventhal,
31 Great. Dr. Tillman, I forwarded to you recently, a message from the Spanish Catholic
32 Center regarding reimbursement under Montgomery Cares for Montgomery County
33 residents who are treated at their district of Columbia clinic. When you have the chance
34 if you can give me your thoughts on that and maybe we could sit down together with the
35 Spanish Catholic Center.

36
37 Dr. Ulder Tillman,
38 Sure, if you want to discuss that privately first, I'll be happy to do that, because I do
39 have some information about that.

40
41 Council President Leventhal,
42 I'll get with you on that.

43
44 Dr. Ulder Tillman,
45 Okay.

June 20, 2006



1
2 Council President Leventhal,
3 Regarding dental services I think we should talk about that, Joan, in the HHS
4 Committee in the month of July. So let's find an appropriate time on the agenda when
5 Committee members can review what to do about a potential interruption of services.
6 Mr. Silverman?

7
8 Councilmember Silverman,
9 Thank you, Mr. President. Dr. Tillman, I know we've exchanged voicemails and we're all
10 addressing, trying to address the challenges of maternity partnership. I have a pretty
11 straightforward request and I assume the Council or Committee would want to have this
12 as well. I'd like to see whatever written documents there are about agreements with
13 Adventist Healthcare in connection with the opening of their Maternity Partnership
14 Services in Takoma park and I'd like to know whether there are any written agreements
15 and I'd like to see them in connection with Shady Grove. I'd also like to know what the
16 hang up is, if any, with regard to access to the Piccard Drive facility and is there a
17 specific timeline... for that... because with all due respect to this whole issue, we started
18 talking with Adventist Healthcare a year ago about this and here we are, it's almost July,
19 and for the life of me, I can't understand why this is taking so long, but it has. In addition,
20 I would like to understand, and you are free to answer any of these questions now if
21 you'd like, I'd like to understand, I had been told that Adventist intends to send folks
22 down to the Takoma Park, to Washington Adventist from the Upcounty as opposed to
23 having them served at Shady Grove which makes no sense to me whatsoever. Is that
24 accurate? And is that part of the agreement that that's been reached?

25
26 Dr. Ulder Tillman,
27 Let me first say that the agreement with Washington Adventist has come before the final
28 agreements we have with Shady Grove Hospital. Washington Adventist has the greater
29 capacity to begin serving women in prenatal care. They have been working probably for
30 almost a year in terms of preparing a clinic on their campus which was probably part of
31 their six-point press release they had mentioned. I believe that was back in September
32 of last year. And the challenges that both of those two hospitals have is, number one,
33 they do not have a residency program as Holy Cross Hospital has, so they don't get
34 additional funding from the state in support of those services. So they'll really are doing
35 it privately. The...let's see how I can answer your question. Because of some of their
36 constraints which are not the same as what Holy Cross Hospital had, the initial open
37 solicitation which we had released really needed to be amended and redone, and with
38 the additional state funds that we have received to support the program, we are re-
39 issuing, if you will, the open solicitation or the agreement. Washington Adventist has
40 signed the current one we have in place, but it does not address the increased
41 reimbursement rate, it does not address that clients now will be going from paying \$125
42 to \$250 in terms of their co-pay, and it does not address the geographic flexibility that
43 we need to accommodate what Holy Cross Hospital has stated firmly that they will
44 adhere to. I should say that a lot of things have been in play. Holy Cross Hospital has
45 said that yes, they will limit it to 125 people a month, but until December of this year

June 20, 2006



1 they will allow for a broader geographic assignment to them then just south of Rockville,
2 which will ease things for us. I think this greatest constraint we have is for Shady Grove
3 Adventist Healthcare they are limited to two, I believe they only have two labor and
4 delivery rooms. As I said, they don't have a residency program for obstetricians so they
5 have private doctors that they've been trying to negotiate with. They have challenges
6 with Maryland in terms of the state health plan and what they're permitted to do with
7 their expansions, and basically the state is holding them to their current bed capacity.
8 Whatever they do they can only have the same number of beds, so even if they're
9 closing something they have to essentially tear out some infrastructure to guarantee
10 they won't use it as beds, so that in their current expansion that they were planning they
11 were not planning to put in a maternity clinic and so they did not have the space. We
12 are trying to accommodate that space for them. They have, at this point in time...

13
14 Councilmember Silverman,
15 At Piccard?

16
17 Dr. Ulder Tillman,
18 At Piccard, that's right. They just received this week, the licensing agreement for that
19 location. And so we need their attorneys to quickly process and go through that. We are
20 trying to accelerate or expedite the final version of our open solicitation or agreement
21 with all of the hospitals so that they can all sign off on it, because as I said, there were
22 three things that have changed significantly in it. So that none of the hospitals have that
23 final agreement as yet but that's with our procurement and they're trying to rapidly get
24 that out to the hospitals. So when that is available and signed off by them, I can get you
25 copies of those agreements. But that has not been signed but as I said, Washington
26 Adventist signed the original one, they've committed, they've gone forward. We've been
27 working with them on the logistics and details of their operation and how to coordinate
28 from when Holy Cross Hospital begins to reach their capacity for the month, and making
29 sure that Washington Adventist is able to start in July to accommodate that.

30
31 Councilmember Silverman,
32 What is...why do you believe they will be opened in July or August at Piccard drive?

33
34 Dr. Ulder Tillman,
35 Why do I believe? I've had meetings with Debbie Yancer the CEO of Shady Grove
36 Adventist and that's what she stated. We met actually with Adventist Healthcare, their
37 upper echelon over the need to accelerate their readiness and preparedness and those
38 are the agreements they so stated.

39
40 Councilmember Silverman,
41 Are they intending to send folks from the Upcounty down to Takoma Park?

42
43 Dr. Ulder Tillman,
44 It wouldn't be so much "they," at this point it would be HHS that we would be sending.



June 20, 2006

1 Councilmember Silverman,
2 What I'm getting is the capacity as I understand it at Washington Adventist is going to
3 be about 500?

4
5 Dr. Ulder Tillman,
6 Which is some 42 clients a month.

7
8 Councilmember Silverman,
9 And it will be 200 at Shady Grove?

10
11 Dr. Ulder Tillman,
12 Once they start.

13
14 Councilmember Silverman,
15 Okay. And is that a...

16
17 Dr. Ulder Tillman,
18 Which comes out to about 16 a month.

19
20 Councilmember Silverman,
21 Is that an issue of space capacity? Is that an issue of personnel?

22
23 Dr. Ulder Tillman,
24 For Shady Grove it's going to be will be an issue of the timing and their personnel, yes.

25
26 Councilmember Silverman,
27 Are they going to be able to get above 200?

28
29 Dr. Ulder Tillman,
30 At this point in time their signing a commitment for 200.

31
32 Councilmember Silverman,
33 Okay.

34
35 Dr. Ulder Tillman,
36 And that's our minimum requirement.

37
38 Councilmember Silverman,
39 What's preventing them from getting above 200?

40
41 Dr. Ulder Tillman,
42 They don't have the space capacity. They could see in the clinic at Piccard, but they
43 wouldn't have the capacity to do the delivery with just two labor and delivery rooms in
44 their hospitals. They also do not have, and I forget the levels in terms of it, but they do
45 not have the high-risk capacity that Holy Cross Hospital has.

June 20, 2006



Councilmember Silverman,
Or that Washington Adventist has?

Dr. Ulder Tillman,
Yes. And even Washington Adventist has made agreements with University of Maryland and their Perinatal Center and brought on a perinatologist to assist them. So, the other two hospitals did not have the, what's the word? The depth of services that Holy Cross Hospital is generated over the years.

Councilmember Silverman,
All right. Who, in the Executive Branch is responsible for making this happen?

Dr. Ulder Tillman,
You're talking about in Montgomery County Executive Branch?

Councilmember Silverman,
Yes. Who in the Executive Branch do I call to, in effect, say: So what's going on? Is it you? Is it Rick? Is it Bruce Romer? Because we've been at this for a very long time and I keep getting different information. I know my colleagues keep getting different information about different target points in time. And I want to know who I'm supposed to call and who, in the Executive Branch, is responsible for making this happen.

Dr. Ulder Tillman,
You have the most up to date information now from me, if you question what I am saying, you can, of course, contact Bruce Romer and he will verify it.

Councilmember Silverman,
I want to know who's responsible in the Executive Branch to follow-up with Adventist, you said that it's in the hands of their attorneys. What's the time line? Whose following-up to find out what's going to happen with this?

Dr. Ulder Tillman,
I know that the second floor is working diligently to make this happen. We just started something last week. They've got it out into Shady Grove this week.

Councilmember Silverman,
But does that mean Bruce Romer?

Dr. Ulder Tillman,
You can see say the final word in terms of making those pieces happen, but I will assure you that the hospitals are very engaged in keeping to these commitments.

Councilmember Silverman,

June 20, 2006



1 Well, I appreciate what you're saying. It's been a year and I don't share your view about
2 their level of commitment. This should have happened months and months ago and I
3 don't believe their feet have been held to the fire, and I want to make sure that if you are
4 of the belief this is going to happen in July and August, I want to understand who's
5 monitoring the timeline on this, and who has responsibility for following-up with Shady
6 Grove, if that's who it is, or Bill Robertson directly, to find out what it going to take to
7 move a piece of paper off of somebody's desk on to somebody's desk for signature, if
8 that's what the issue is. Are they, is there, have arrangements been finalized with regard
9 to Piccard Drive?

10
11 Dr. Ulder Tillman,

12 That's what I was addressing in terms of that the County has finished, wait a minute.
13 Yes, the County completed the arrangements for the licensing agreement it called, and
14 so that's gone to Shady Grove.

15
16 Councilmember Silverman,
17 Okay.

18
19 Dr. Ulder Tillman,
20 This week.

21
22 Councilmember Silverman,
23 So are you, do you remain the point of contact on this? Or is Bruce Romer?

24
25 Dr. Ulder Tillman,
26 I'm the point of contact. Once you contact him he has to contact HHS, Carolyn [Colvin]
27 and myself.

28
29 Councilmember Silverman,
30 Okay, well we're in session, you know, for another month. And I would certainly
31 appreciate it. I don't want to speak for the HHS Committee, but I would certainly
32 appreciate it if we could get some type of weekly updates as to where we are in the
33 hopes that is this will all be resolved by the time we go on recess at the end of July. Or if
34 it isn't, that we understand why, because we've had Adventist here. They're not here
35 today but we've had them here and they've represented they want to make things
36 happen. And as I said, we've all had different conversations but I had conversations with
37 Adventist Healthcare and Bill Robertson going back to last year's budget. And, you
38 know, this is gone on now for 12 to 14 months. We have extraordinary challenges here
39 and I don't have a sense that this has been the highest priority all around to make it
40 happen, and I would like to think we can get this off everybody's plate by the time we go
41 on recess. Thank you.

42
43 Council President Leventhal,
44 Thank you for questions, Mr. Silverman. It has been a very high priority for the
45 Chairman of the HHS Committee and I've had a number of conversations with Dr.

June 20, 2006



1 Tillman privately about it. And I think in terms of holding Washington Adventist's, or the
2 Adventist Healthcare systems feet to the fire, what really puts their feet, what got them
3 feeling the heat under their feet was Holy Cross' announcement that it was going to
4 serve a certain number of women and no more. I think it is the case that Adventist was
5 moving fairly slowly, believing Holy Cross would continue to pick up the entire slack for
6 an indefinite period of time with all good intentions, but not a real strong motivation to do
7 anything. I think with Holy Cross announcing it was going to put a cap on the number of
8 women it would treat, both our health branch and Adventist Healthcare system have
9 responded with much greater sense of urgency, and it is my hope and I've been in close
10 touch with Dr. Tillman on this, that there will not be any interruption in the program in the
11 month of July and that we'll have consistency as Piccard opens up and as Adventist
12 Healthcare system steps up to the plate. There's still some burden on Holy Cross in the
13 month of July which we hope we can make up for later in the year and we're, and I've
14 been in communication with Holy Cross and with Adventist Healthcare and Dr. Tillman
15 for the last many, many months on this issue. Mr. Perez?

16
17 Councilmember Perez,

18 Thank you. Good morning, Mr. President. I, too, have had a number of conversations on
19 this issue and part of the challenge, and I appreciate everybody's frustration with not
20 having it in place. But a big part of the challenge is getting the right provider in to assist
21 Adventist in carrying out this program. I've met with a number of the potential providers
22 and building a program that is going to serve a specific niche environment is not
23 something that can be done overnight, so while I have I frustration on one level that
24 we're still having this conversation, frankly, my bigger reaction here is that I'm more
25 concerned with making sure we get it right and get the rights provider in there. I sent a
26 letter to Adventist roughly a month ago underscoring the need to make sure that they
27 choose a partner that will be able to hit the ground running. Somebody with a proven
28 track record in treating the community that will be the community likely to be served
29 under this program. That is to say, I'm assuming the majority of folks in the program are
30 going to be immigrants, and we need someone who has a proven track record in
31 serving the immigrant community in the maternal health setting. so, that is not the
32 easiest of tasks but I know, having spent a lot of time on this, that they are, I think
33 nearing closure in terms of the selection of a partner to take this forward. So again,
34 while I'm frustrate that we haven't been able to come to closure I'm much more
35 concerned with making sure we come to closure with the right partner that will be in the
36 best interest of the communities to be served. And I'm confident that they will get there,
37 and I certainly appreciate the work that Holy Cross has done to date. I'll note that our
38 conversation has focused exclusively on the maternity partnership program. In the
39 category of interesting data points, I was talking to Kevin Sexton a while back and in
40 particular, we were talking about the clinic at Montgomery College in Takoma Park, in
41 south Silver Spring I should say, and I asked him the question of: What is the most
42 surprising data point in terms demographics you serve, and in particular, I was trying to
43 get at the issue what percentage of people served there are from the District of
44 Columbia, and the answer I got was not the answer I expected, which was the much
45 more surprising statistical finding is that the high percentage of people that they serve in

June 20, 2006



1 south Silver Spring, that come from north of Rockville. So we have a clinic that is almost
2 on the line of the District of Columbia and Silver Spring, that serves a substantial
3 contingent of people north of Rockville. That was a surprising revelation and, perhaps,
4 upon reflection, I shouldn't have been as surprised as I was by that but I simply throw
5 that out there as we focus on the maternity partnership program, the broader issue of
6 simply locating the clinics so that they are accessible, regardless of what your need is.
7 Whether it's maternity or just general preventative health care, et cetera. That fact is a
8 real bell weather of our needs to create a quilt of clinics that are geographically
9 accessible because it really is, I can't imagine the amount of time and effort that people
10 from Germantown and elsewhere are taking to come to a clinic in south Silver Spring.
11 One thing I would ask Dr. Tillman and I appreciate all your efforts in this regard. I know
12 your commitment is from the heart, passionate and much appreciated. Two weeks ago
13 or so, there was oral argument in the Maryland Court of Appeals on the lawsuit
14 regarding access to health care for pregnant women and children. I expect that the
15 Court of Appeals is going to issue a ruling which will affirm the ruling of the Circuit Court
16 and your affidavit was very helpful in connection with that case. And in so doing, they
17 will, I expect the Court of Appeals will rule that the Governor acted unconstitutionally
18 when he cut 4,000 legal immigrant women and children off of the Medicaid roles. What I
19 was going to ask of you is, to the extent that you are able to quantify the cost to the
20 County of picking up the slack for that illegal and unconstitutional action from the
21 Governor, I would appreciate if you would do that because I think the Governor, when
22 that ruling comes out, ought to get a bill from Montgomery County for the cost of caring
23 for these, probably, couple thousand people. I know it may be slightly difficult to track
24 who is in that cohort and what you have done but I would ask you to attempt to do that
25 because I believe that we can, and should, attempt to seek reimbursement for this. This
26 was cost-shifting from the state of Maryland on to local governments and safety net
27 providers and hospitals like Holy Cross and elsewhere. And I think we should cost-shift
28 right back do them and when this ruling comes out. It is really, indeed, unconstitutional
29 and unconscionable what happened. So, if you could do that I certainly would
30 appreciate I. I recognize that it may not be perfect. You may not be able to capture
31 100% of what you did there, but if you could give it the college try.

32
33 Dr. Ulder Tillman,

34 Certainly, some of those pregnant women we won't know since our program only goes
35 up to 185% of federal poverty line and that XO-1 program went up to 250%.

36
37 Councilmember Perez,

38 I fully recognize that it won't be a perfect fit but if you have some way of capturing what
39 you've provided, and if you have a way of sending a directive to some of the community
40 clinics to say, if you have been caring for some of the people falling in this cohort,
41 please let us know was know, because we really do want to try to identify what the cost
42 was there. That was one request that I had. The other request that I had in terms of
43 data that I would very interested in. Councilmembers Leventhal, Andrews, and I
44 introduced a Bill earlier today regarding the issue of trying to provide inducements for
45 employers to provide health care. And I believe that as a large purchaser of goods and

June 20, 2006



1 services we can use the procurement process to incentivize private businesses and
2 reward those private businesses that are doing the right thing. This is a carrot, not a
3 stick. It simply says, if you're doing the right thing and paying a living wage and
4 providing health benefits to your employees, that if you are competing for County
5 business, you will get rewarded in that process. It is, again, government trying to send a
6 message to the private sector that providing health care is something we value and
7 we're putting our money where our mouth is. One of the issues that would be very
8 helpful and you may be in a position to do this, there is data nationally surrounding the
9 number of uninsured people who are actually employed. I haven't seen that data
10 disaggregated to a County level and I would be curious if we would be able to
11 somehow, devise a study or some sort of survey instrument that can measure the
12 amount of uninsured in Montgomery County, and then the number of that cohort, that is,
13 in fact, employed because I think as we move forward, one of the myths of Medicaid is
14 that it's a bunch of lazy people sitting home doing nothing. That couldn't be further from
15 the truth. It has become the health insurance for low-wage people who work two and
16 three jobs and employers, who are, often times, now not offering those benefits and so,
17 I think it would be very helpful as we move forward. Not only with this legislation but with
18 the overall conversation about access to health care and access to health insurance. If
19 we could figure out a way to gather some sort of data that captures the fact we have
20 "X" number of uninsured in Montgomery County and 70% or "X" or "Y" percent of those
21 uninsured are actually employed. I think that figure will surprise people, and so if there's
22 a way to capture that, I would certainly be grateful. And finally, and I know we have a lot
23 to do today so I won't get into it today, but I would be very interested in learning the
24 extent, and I've asked this question before, the extent to which we have been able to
25 avail ourself of the Maryland Health Insurance Programs. Again, you and I have had
26 that conversation a few times and I'm aware of some hospitals that are using, that are
27 basically operating under the philosophy if you spend some money you can bring some
28 money in, so they're subsidizing the premiums of eligible people who don't have the
29 wherewithal to pay those premiums and you pay \$50 a month, but then your able to
30 secure the reimbursement for that health care, which far exceeds the premium your
31 paying, so I believe that that holds some promise and I think there was a pilot that you
32 were contemplating.

33
34 Dr. Ulder Tillman,

35 We have been exploring a pilot and we still have that in the budget for Montgomery
36 Cares for FY '07 as well, and we've had dialogues with primary care coalition. And Holy
37 Cross Hospital had started subsidizing some of that already, and we were exploring if
38 we could link to that, but that didn't come to fruition but we're still going forward
39 exploring that. The premium would be closer to about \$500 a month.

40
41 Councilmember Perez,
42 I didn't know....

43
44 Dr. Ulder Tillman,

45 We want to assess if that is really easier...

June 20, 2006



1
2 Councilmember Perez,
3 If it's not cost effective obviously it's not cost effective but it certainly is intriguing and
4 worth experimenting with. Thank you, Mr. President.

5
6 Council President Leventhal,
7 Mr. Knapp.

8
9 Councilmember Knapp,
10 Thank you Mr. President. I appreciate the interest in the Maternity Partnership, and also
11 the interest in the plight of the Upcounty folks who are traversing the distance to the
12 County to try and actually receive care. To that end I was also under the impression that
13 Adventist is looking at expanding the clinic to the new emergency room facility in
14 Germantown, and I don't know the timing of that, and I don't know how that correlates to
15 the capacity that they would have at Piccard Drive was that in addition to the \$200?

16
17 Dr. Ulder Tillman,
18 They are applying for state bond money to be to be able to expand in the Germantown
19 area. We've done a support letter to that effect to help them. That is really where they
20 were planning to have their original capacity. My understanding is that was going to be
21 maybe two years out. That's why we're giving them interim place.

22
23 Councilmember Knapp,
24 To that end, I also thank my colleagues for their support last year for the emergency
25 room facility because the this point, it really is the main point of care for access or
26 access to care in the Upcounty, or will be and it opens on July 31st, which is significant,
27 but you're looking at nearly 200,000 people at that, recognizing emergency care is the
28 most expensive care that you can receive, but at least is a place for access, which is
29 something that is sorely lacking. So thank you all for your support on that. Dr. Tillman,
30 on Montgomery Cares program, you were talking about the number of people that we
31 were hoping to serve, and I was just curious, are we actually measuring number of
32 individual residents served, or is it on the basis of numbers of visits?

33
34 Dr. Ulder Tillman,
35 We're actually doing both.

36
37 Councilmember Knapp,
38 Okay.

39
40 Dr. Ulder Tillman,
41 We have tasked the clinics and PCC to be able to produce to us at quarterly the
42 unduplicated counts, and they also keep track of the number of visits as well, so we're
43 collecting, I gave you unduplicated counts.

44
45 Councilmember Knapp,



June 20, 2006

1 Unduplicated counts, okay, so we're looking at, and in there are we also looking at the
2 type of care that is required for, so we're seeing actually what's being provided to those
3 unduplicated counts?

4
5 Dr. Ulder Tillman,

6 We're really doing a rough average that it would be about three visits per person. But in
7 terms of the acuity or the type of care, we've got a separate project tracking diabetics in
8 the program and then with the Rand evaluation, we're trying to get closer into the types
9 of care and the types of visits, but that's a while off.

10
11 Councilmember Knapp,

12 So do we think we'll actually see that type of information this year?

13
14 Dr. Ulder Tillman,

15 Rand has been working with PCC with the electronic record to get the fields in place
16 and to have the training to the providers, so that we're getting that information into the
17 electronic system. From that point, then we'd be able to sort out. I assuming that it's
18 going to be a year to make sure we have the fields and the data collection in place and
19 then we ought to be able to see some progress from that.

20
21 Councilmember Knapp,

22 All right. I guess my only other question is the Community Health Improvement Plan, I
23 was unclear on the way you presented that. Are we going to proceed with the
24 Community Health Improvement Plan or the assessment, whether or not Adventist
25 proceeds with their activities?

26
27 Dr. Ulder Tillman,

28 Yes.

29
30 Councilmember Knapp,

31 So, we will do that, then there was a second step that we will do, we've got another
32 RFP, if they proceed?

33
34 Dr. Ulder Tillman,

35 Yes, I'm sorry, I was trying to kind of roll into one that there are two RFPs that will
36 probably be coming out. We know that we will proceed with the requests for proposals
37 to do the Countywide Health Assessment and County Health Improvement Plan. And
38 within that not only is it going to look at what the inventory is and what the status of the
39 community is, but also what services are available in the community and where the
40 services are. That can give some background information, if it we then need to look at
41 the impact which was brought before, what's the impact if that hospital relocates, and
42 where they relocate, and how that would affect services. But the latter piece will be a
43 second RFP that will build on the first.

44
45 Councilmember Knapp,



June 20, 2006

1 In light of the comments earlier, obviously my concern is looking at kind of that broader
2 assessment. I think there are pretty big gaps, especially looking at emerging
3 populations, and just new growth populations in the Upcounty. So, do we have some
4 idea of the timing of when we'd begin to see the initial results back from the broader
5 assessment?

6
7 Dr. Ulder Tillman,

8 Yes, we have several products and if our RFP begins in September/October, we will
9 have the information by the end of January of 2007.

10
11 Councilmember Knapp,

12 Okay, great. Thank you very much.

13
14 Council President Leventhal,
15 Ms. Floreen?

16
17 Councilmember Floreen,

18 Thank you. I have a couple of follow-up questions, Ms. Tillman, and my colleagues have
19 asked some of the base questions and I have some related ones. On the question of
20 written commitments, particularly in the Washington Adventist situation, do we have a
21 written commitment from them with respect to their long-term commitment to their
22 Flower Avenue project? In terms of the health services that are to be provided there.

23
24 Dr. Ulder Tillman,

25 No, we do not have a written commitment on that. We had several meetings with them
26 in terms of trying to get a date certain on that situation. We were given an estimate in
27 terms of when they were going to break around. Now we understand that they are
28 dealing with some community opposition in terms of the location of that site in that
29 things may go on a litigious path, which unfortunately, will delay what we would like to
30 see happen.

31
32 Councilmember Floreen,

33 I'd asked the same question of David Edgerly when we were discussing the County's
34 engagement in that project. I guess I would like to be kept posted that whatever
35 agreements there are, it seems to me that if the County is going to put money into the
36 project, we should be assured of the long-term services that we've been told would be
37 provided there. So, putting to one side the land use argument, I'm sure that will get
38 resolved. This issue of what kind of services, under what circumstances and for what
39 length of time, I think I need to be identified in some, again, written commitment. I would
40 ask that you keep, I'd like to know what the progress is on that at the appropriate time.

41
42 Dr. Ulder Tillman,

43 May I ask for clarification, are you asking for a written agreement between Washington
44 Adventist and the County?



June 20, 2006

1 Councilmember Floreen,
2 Yeah.

3
4 Dr. Ulder Tillman,
5 Now, the land use, of course, is with David Edgerly, so...

6
7 Councilmember Floreen,
8 That land use part is separate, but it's based on the provision of the services.

9
10 Dr. Ulder Tillman,
11 Right. Okay. Right, and we just have a description at this point in time.

12
13 Councilmember Floreen,
14 Typically in the economic development reign there is a clearer, I think, understanding of
15 the business presence. Than there might be in had this case. I'd like to get that
16 articulated and get some clear, we've been advised on the subject, surely. But in terms
17 of the details of this, I think that it is important that those be clear. Just in terms of the
18 obligations, typically establishing land use arena, I think for the public health part of this,
19 it would be helpful. And I think critical to our support to have this nailed down.
20 Particularly with the issues of the potential relocation of Washington Adventist. And then
21 I also have a lot of questions with respect to the Community Health Improvement Plan
22 that you identify here. I have heard, I've had similar conversations, such as that, by
23 Councilmember Perez with respect to who uses these services, provided in the
24 Downcounty. And I am hopeful, will the plan that you're going to prepare refer to that, as
25 well? Services provided to non-county residents, as well? I was told that Washington
26 Adventist serves a tremendous number of residents from Prince George's County, in its
27 emergency facility, at least. And I would expect that an analysis of the service area of
28 the different hospitals be part of the health plan investigation, such as it is. Do we
29 currently have a plan? Or at least a statement of hospitals existing? Their current
30 service area? And where, what their public involvement is in terms of these joint
31 agreements and the like? Do we have...

32
33 Dr. Ulder Tillman,
34 That information actually comes from the state in terms of the Health Services Cost
35 Review Commission.

36
37 Councilmember Floreen,
38 I'm sure it does...

39
40 Dr. Ulder Tillman,
41 We obtained initially in terms of the one hospital and a service area, and what were its
42 primary and secondary zip codes, and as well has from where do their clients come
43 from. So, we had information in terms of the percentage coming from Prince George's
44 County, the percentage coming from the district. So, we did that for one hospital. We
45 have not done it for all the hospitals.

June 20, 2006



1
2 Councilmember Floreen,
3 Yeah, it would seem that you would want to include that in your documentation for the
4 full County. I am concerned, I think it's important for the County to appreciate the needs
5 served by the different hospitals and to have an appropriate appreciation of the costs
6 and burdens. Of that service. Whether or not Adventist relocates, it seems to me it's
7 appropriate to examine, and I think some of my colleagues were sort of getting to this
8 with respect to the maternity partnership issue, the responsibilities that have been
9 assumed by Holy Cross, vis-à-vis other hospitals in the area. And any costs associated
10 with that. That that be at least fully understood in the planning documentation for the
11 area. I know much of this is done at the state level, but if we're going to do a plan and
12 certainly if we're going to be doing anything with respect to the relocation of Washington
13 Adventist, we want to be very sure, I think, that our actions are, take into account the
14 impact of some choices on other service areas.

15
16 Dr. Ulder Tillman,
17 Yes.

18
19 Councilmember Floreen,
20 Montgomery General, as well. And no doubt issues associated with our neighbors in
21 Prince George's County.

22
23 Dr. Ulder Tillman,
24 I can't comment in terms of necessarily the impact of another, on another County. But
25 we certainly can look at those County residents coming in.

26
27 Councilmember Floreen,
28 To at least be aware of the service area issues associated with the closest hospitals in
29 Prince George's County. Certainly health needs, know no boundaries in terms of
30 treatment and support. And as I said, I just think that it's important that we have a
31 complete handle on the health providers activities, and I know you do, the health
32 providers commitments in the County. There are lots of other supporting groups.
33 Montgomery Cares initiative, of course, is a huge resource but with respect to the
34 hospital presence, I think it would be important to just understand where the balance is,
35 where the, how the services are arranged, and I'm not sure if your plan is going to look
36 at fiscal impact or the dollar issues associated with the care obligations that some, that
37 the hospitals have undertaken.

38
39 Dr. Ulder Tillman,
40 We will try that, but you're also now getting into some of the issues of the second RFP,
41 which is the sixth criteria that you're required to look at for the certificate of need and
42 that's exactly what we were interested in originally, in terms of what's the impact on the
43 various service areas and the providers.

44
45 Councilmember Floreen,



June 20, 2006

1 Are you saying that you will only have 30 days in which to respond once an application
2 is filed? Because that, is that the case?

3
4 Dr. Ulder Tillman,
5 Not once it is filed. They do a letter of intent. I don't know the exact, a letter of intent in
6 March, I think it's like April 15th they have to submit the actual application. The cause of
7 the health care commission has a period of time to make sure that it's complete and it
8 goes back and forth. But once they deem it ready and can call it docketed, there is only
9 a 30-day window to provide comments. That's what we were up against last year and
10 that's why we're putting ourselves in position to be ready for that.

11
12 Councilmember Floreen,
13 Well, that's, I think that's good forward-thinking. I guess my comment, though, is if we're
14 going to do this Community Health Plan in any event, that that would be, include a lot of
15 this basic information.

16
17 Dr. Ulder Tillman,
18 A lot of it.

19
20 Councilmember Floreen,
21 And I think it's important, especially with respect to Mr. Silverman's questions about
22 what are the commitments? We, so that you understand, that you have, it's clear to all
23 what the long-term arrangements are. That are, are clearly understood, let's put it that
24 way.

25
26 Council President Leventhal,
27 Okay, thank you, Ms. Floreen. I will have to urge my colleagues, it's not going to be
28 practical for each Councilmember to take 15 minutes for questions. Mr. Andrews.

29
30 [LAUGHTER]

31
32 Councilmember Praisner,
33 Does that mean we have your 15 now?

34
35 [LAUGHTER]

36
37 Council President Leventhal,
38 Friends, come on, Mr. Andrews has the floor.

39
40 Councilmember Andrews,
41 Not only will I not take 15 minutes and wasn't planning to. I will be brief. This is very
42 important responsibility, County Council Citizen's Board of Health. I think the questions
43 and comments reflect that interest and commitment to this. And regard to the
44 community health improvement plan, I would note that there are a variety of ways that
45 the council can involve itself and assist in the general goal of improving community



June 20, 2006

1 health. And I want to thank Councilmember Perez for putting forward the initiative,
2 which we've discussed a little bit to provide a 10% price preference for companies that
3 provide adequate health insurance to their employees when bidding for County
4 contracts. That really builds on the living wage law. And when I wrote that back in 2002,
5 I wrote it in a way which insured that companies didn't have an incentive to cut health
6 insurance because it provides a dollar for dollar credit for companies that provide it. And
7 so that established, there would be no disincentive to drop, or no incentive to drop
8 health insurance to comply with it. This goes a step further and provides an incentive to
9 do so. I think that's important. The council has occasionally taken a more direct
10 approach by requiring, as we did in 2003, that all restaurants is safe air under the
11 smoke-free restaurant law, which has now been adopted by the district and Prince
12 George's and Howard County most recently. So, there are a variety of ways that we're
13 working to improve community health and it is important have strong partnerships with
14 our health providers and I very much appreciate the good work you're doing, Dr.
15 Tillman. I know that this is a labor of love for you as well as your professional
16 commitment and I think that we are headed in the right direction and we are doing more
17 than any other County to provide health care for our residents. And safe conditions so
18 they don't get sick. So, thank you for your commitment.

19
20 Council President Leventhal,
21 Thank you, Mr. Andrews. Ms. Praisner.

22
23 Councilmember Praisner,
24 I think it would be helpful as we continue this conversation of hospitals and the services
25 they provide, for us to get a brief overview, again, of what are the regulated
26 requirements in the state of Maryland that are very different than other jurisdictions from
27 a standpoint of both cost containment and certificates of need process, which is more
28 universal from a certificate of need perspective. Those of us who live on a, the areas
29 adjoining other jurisdictions, and those who frequent doctors on whatever basis know
30 that when it comes to regular service, you go where your doctor has a practice, as far
31 as the hospital is concerned. And hospitals add and delete services based on both
32 projections of need, as well as the certificates of need and justification. When the
33 Laurel/Beltsville hospital was created, it had no maternity area but over time, as that
34 evolved, it added maternity and where doctors' offices are in conjunction with hospitals
35 is how they make decisions as to where they will practice their profession, especially
36 given the changes in structure and requirements and income for doctors. Regulation
37 and liability issues. So, it's not just an interest or an identification of need by virtue of
38 population that drives in the state of Maryland what services are provided and there's a
39 lot of interest in specialty and conflict among hospitals as to specialization from a
40 standpoint of a heart or a stroke. We went through a significant dialogue with
41 Montgomery College, Montgomery Hospital and Suburban, et cetera, over stroke center
42 issues before the state of Maryland identified formally stroke centers as a piece. So, I
43 think as we go forward with clinics, which were obviously a function of both emergency
44 room and service to the underinsured or uninsured, there also is a need for us to
45 understand the broader community level of requirements, and how they interact with

June 20, 2006



1 other jurisdictions but also how they interact as far as what we may want versus what
2 the state of Maryland allows, or what a hospital may want because you've got to justify it
3 from a cost perspective and a needs perspective, but that need perspective is
4 associated with what other hospitals have available already. And every hospital has a
5 core service area but that doesn't mean that that, those are based on certain
6 assumptions of access. They are not necessarily based on the assumptions of where
7 doctors assign folks. So, and the more you have specialization, the more folks go a
8 broader distance to go to their specialist as opposed to the general practitioner. So, I
9 think it would be helpful as we go down this road and prepare for March, if there is any
10 discussion in March or any actual filing, I think it would be helpful for us as a Board of
11 Health to have a better understanding of the intricacies of, Holy Cross is certainly
12 carrying a significant responsibility but Holy Cross has over the years assumed more of
13 a responsibility in maternity than other hospital facilities have, from the neonatal to just,
14 well, my obstetrician called it the Holy Cross Hilton, from a maternity perspective years
15 ago. That certainly wasn't recent, but that means that in the '60s and since the '60s and
16 beyond, Holy Cross specialized significantly. A lot of its practice, and a lot of its service
17 on maternity and neonatal, prenatal, even though children's provided some of that. And
18 with Columbia closing, that changed a lot. So, I think we need to understand the context
19 of how regulation and requirement fit with this and also the, I would urge greater
20 interaction with the health care facilities in the other counties, like greater Laurel and
21 Howard County, too, and for that matter, Prince George's, to understand the extent from
22 which their zip codes seeing service from Montgomery County folks. Because when we
23 start to talk about where Montgomery County folks are being served, I think that varies,
24 depending upon the level and depending upon the assignment from, yeah, where the
25 doctors are spending their time. Thank you very much.

26
27 Council President Leventhal,
28 Dr. Tillman, we've got to move on. Thank you very much. Let me just say to
29 Councilmembers that I found that Dr. Tillman and her deputy, Rick [Helfrich], are very
30 responsive to me and I'm sure they will be similarly responsive to other
31 Councilmembers. If there are other questions we didn't get to this morning, their e-mail
32 address is known to all of you. All right, let's move into the beginning of a work session
33 on Workforce Housing. Our primary task today is to interview applicants for Planning
34 Board Chair, regardless of where we are in the Workforce Housing discussion at 11:45,
35 we will adjourn this discussion at 11:45 and we will go into our first interview for
36 Planning Board Chair. I don't know how much we will get done on Workforce Housing
37 today. I don't know whether we will be in a position to vote on Workforce Housing next
38 week. I know Councilmembers will have many questions, including me, but let us begin
39 with Chairman Silverman.

40
41 Councilmember Silverman,
42 Thank you. Thank you, Mr. President. We're all suffering through summer colds, or
43 some of us are.

44
45 Councilmember Praisner,

June 20, 2006



1 Uh-huh!

2
3 Councilmember Silverman,

4 I had a couple of overall comments to make and then we'll work our way through the
5 packet and obviously see what questions folks have. What we're going to do is we're
6 going to work through Agenda Item 8, which is the legislation itself, then we'll deal with
7 the Zoning Text Amendment because the issues are highlighted there. Let me make a
8 couple of comments for an overview and some type of a context. And I apologize, but I
9 think there's a few factoids that we need to get updated on. For the first time in 15
10 years, we're about to cross the threshold that will give Montgomery County the dubious
11 distinction of being a place where the median income household cannot afford the
12 median-priced existing townhouse. We've all heard for the past couple of years that
13 families typically can't afford an existing single family detached home or a new
14 townhome and certainly can't afford a new single family detached home. Now they're
15 about to enter a world where they can't afford an existing townhome, according to the
16 latest statistics from Park and Planning latest economic forces report. To put a number
17 on these, the median price new single family detached house is 760,000, existing single
18 family, detached, \$527,000. New townhomes, \$476,000. And existing townhomes,
19 \$335,000. There is no one silver bullet. This piece of legislation is a modest attempt to
20 address a piece of the Workforce Housing need in the County and to target it at our
21 smart growth areas near metro stations, where the bulk of our future growth is planned.
22 It will provide a way for folks. We always use the two cop, two teacher, two firefighter
23 example even though this legislation is not restricted to public employees, but it will
24 provide a way for folks who are making those incomes to be able to potentially afford a
25 condominium or townhouse in the smart growth area. I'm going to highlight the
26 legislation and Zoning Text Amendment. We'll work our way through this. Very briefly
27 the legislation mandates that 10% of new market rate housing in certain zones must be
28 Workforce Housing, which is basically housing affordable on to people between 80 and
29 120% of area median income, and we will get into what that means when we get into
30 the packet. As an example, a 100 unit apartment or condo building that has 87 market
31 rate units, and 13 MPDUs would be required to build 8 Workforce Housing units for a
32 total of 108 units in the building. The zones that are to be covered are those in the
33 metro station policy areas with a density of 40 dwelling units per acre or greater. There
34 is a map in, I think it's Ralph's packet, which is Agenda Item 7 on Circle 42, which
35 shows you the areas in the metro station policy area that would be covered. If this
36 wasn't complicated enough, but just to clarify, while we talk about this legislation
37 applying in metro station policy areas, it doesn't cover every square inch in metro station
38 policy areas. It only covers the zones in our metro station policy areas that would be
39 considered medium to high-density zones. Those are the ones that generally are not
40 adjacent to single family housing. That, at least, was the, was the target. Unlike the
41 MPDU law, developers will not receive bonus market rate units along with the
42 Workforce Housing. However, the density limits of the zone can be exceeded in
43 proportion of the number of Workforce Housing units constructed, but no more than a
44 10% increase in any limits on the number of dwelling units or FAR limits, in other words
45 the bulk of the building. This next point is very key: The height limits in the zones cannot

1 be exceeded. Although in central business district zones, which have two potential
2 height limits, the higher one would be the maximum. So, again to clarify and use the
3 right terminology, you're going to hear a lot about density bonuses. This legislation is
4 Workforce density bonus, not market rate density bonus. Under our legislation, when
5 you go to put in additional MPDUs, above what is mandated by law, you get bonus
6 market rate units above and beyond that. This legislation does not allow for bonus
7 market rate units and we'll get into the economics but the concept here is that we are
8 mandating the developers do this. The expectation based on the number crunching and
9 we have our consultant, Park and Planning has a consultant, we have HOC. The
10 assumption is a break-even proposition, but no entitlement to additional market rate
11 units, which is what the law for MPDUs are. We spend a ton of time reviewing economic
12 analysis. We have Eric Smart, from Bowl and Smart, who was brought on by the
13 Department of Housing Community Affairs. We have our Housing Opportunity
14 Commission which reviewed the numbers, as well. The short answer as to whether a
15 developer can build Workforce Housing and make it work financially without any bonus
16 market rate units, is probably the variables include stick-built construction or high-rise,
17 geographic location where land prices vary, rental versus condo, whether the unit is
18 priced at the low end of Workforce income or the high end. Could somebody possibly
19 make a project work without the Workforce density bonus, which is the position of the
20 Planning Board? The answer that we received is possibly, but not likely and as HOC
21 said, the metro areas are exactly where we want our housing production to be and
22 where we want more Workforce Housing. So the concern is that if we take a chance
23 and have the units come out of the market rate units that, in fact, we won't be able to get
24 the projects. That is sort of the gist of it. If this legislation is enacted in addition to
25 strengthening the MPDU law that we did last year, and the inclusion of a Workforce
26 Housing requirement, we are insuring that in these targeted areas that up to a quarter of
27 new apartments, condos, and townhomes, will be affordable to residents of moderate
28 income. So, that's the general overview. We will see what other comments people will
29 make. Ms. Praisner?

30
31 Councilmember Praisner,

32 Yes, I didn't know whether Ms. Floreen wanted to make any introductory comments as
33 member of the committee. I wanted to make a couple of comments. I, as I think the
34 committee discussed this is a complicated issue from a standpoint of whether we will
35 actually see and how many units we will actually see, especially when you work through
36 the implementation time period and the questions of to what projects should these new
37 requirements apply. At what point should a development be before it kicks in, for
38 example? That's a question of grandfathering and how generous that grandfathering be.
39 I made some comments within the committee that I wanted to reflect here. That is one.
40 I'm not sure how successful this is going to be, I think all of the committee members as
41 we looked at this. I think there were some legitimate ongoing developmental concerns
42 raised by the developer community. I think this is a question that is going to relate to a
43 great extent, what type of development you're building, especially with stick versus steel
44 kinds of issues. We are yes, our housing has reached a significant challenge from the
45 standpoint of the economics, but we're also, I think the comments of what's happened

June 20, 2006



1 with housing has been incredible and out of the context of the normal fluctuations. I
2 think we're beginning to see not exclusively, again, this is not an exclusive Montgomery
3 County issue in the Washington region. We are beginning to see houses stay on the
4 market longer, as far as existing homes are concerned. I think we're beginning to see
5 some fluctuation, some decrease in the increase or the magnitude of the increase. By
6 the time we get to the first developments for which this will apply, what the housing
7 market will look like is another question. So, we will have to see, but I don't think this
8 should be the only area where we continue to focus from a standpoint of affordable
9 housing. Despite the economics of what we've heard about closing cost issues, I still
10 think for some comments I hear from folks about their children who can't afford to buy,
11 some of it is that they can't afford to buy based on the income now, but not necessarily
12 on their projected on their long-term capacity. So, it's a short-term issue, perhaps. There
13 also have an element of I don't want to buy what might be available. And I think this is a
14 phenomenon of folks who, when I think of my folks or even myself, in a starter home
15 versus the permanent home, that I think we have seen folks have expectations that may
16 not be realistic to some extent, about what they might start with. I don't know that we've,
17 that there were legitimate issues being raised, I think, by the developer community and
18 the biggest fear for me is that a development will be unworkable by virtue of what we're
19 front proposing and we lose the MPDUs in the process. If it we start to see that MPDUs
20 are not being built, then I think we've lost the focus for affordable housing and we need
21 to re-examine, and that's why I supported the sunset on this legislation, so it would give
22 us the opportunity to evaluate. We didn't really come to closure. I'm not sure where we
23 left that in the committee. I reminded folks that our PLQ legislation and others had
24 sunsets associated with it. So did the Department of Permitting Services and it wasn't a
25 death mail, but it did allow us to do the refinements and it also let folks have a greater
26 comfort level. The other question that's a big unknown, we spent a lot of time looking at
27 the finances and there are so many variables in financing, from how long you owned the
28 land to when you locked in your prices to, well, who your partners are and who your
29 banker is, that I don't know that we can, anything we looked at is speculative and will
30 continue to be. I also know, having watched a couple of specific developments in
31 neighborhoods that I traveled through, that some assumptions must have been made
32 about costs and about marketability and the ability to go forward on those developments
33 when the sign said \$450,000 or \$500,000 and now the developments are selling for 6
34 and 650. So, somebody's making not a nice profit, they're making an extremely nice
35 profit. And so that issue, or what's the nexus of where a legitimate issue of profit is a
36 piece of it and where the prices are because the market can bear them versus
37 affordability issues, the government itself can regulate, I think are questions that we
38 continue to have nice discussions about but I don't know there is an answer to. Folks
39 have an entitlement to develop, and if the market will bear those prices, I'm not sure that
40 there's a way that the government can say no you can't. But at the same time, I don't
41 want to look at documents that say it won't be built if obviously it can be built and a
42 pretty profit can be made. So, I feel like somebody sitting there with a Ouija Board who
43 doesn't necessarily have my hands on whatever you call that thing as it moves across
44 because I don't control all of those things and I really am beginning to, as I sit here,
45 think there is more and more, little that the government can do, beyond maybe helping

June 20, 2006



1 and where can we put our focus. And I'm worried about those at this level but I think our
2 primary focus has to be on the MPDU related developments and that's why I think we
3 have to continue to monitor those, to make sure that we don't have unintended
4 consequences and we also look at the economics of what the reality is. I think the folks
5 like Anne Martin, who came and talked to us, and Pat Harris had very legitimate issues
6 that they raise. They are unknowns for all of us, as we go through this process. That
7 said, this is where we want development to occur. But I also was concerned about the
8 quality of that development and I am growing increasingly concerned about our saying,
9 making assumptions that we can, I was going to use the term short change and I'm not
10 sure that that's fair. I'm not sure that we can reduce requirements for green space or
11 parking, et cetera, in MPDU or affordable housing related developments, senior or
12 otherwise, because of what I'm finding are the complaints later on for the folks that live
13 there, that there are less than adequate spaces or less than adequate green space and
14 there certainly aren't the amenities or infrastructure that people want. So, just as Go
15 Montgomery focused on new road construction and new public transportation, and we
16 didn't necessarily focus until the last few years on existing infrastructure. I really think
17 we have to focus simultaneously with where new development goes. We have to focus
18 simultaneously on infrastructure adequacy there. Quality and livability and we also have
19 to focus on the existing affordable houses. Maybe not the ones that folks ideally want to
20 buy, but they still remain, they may be as Mr. Silverman indicates, inching up in price. I
21 think that will level off slightly. But they are our older neighborhoods where people
22 continue to exist and it is a quality of life issue for them, as well. Mr. Leventhal, I think
23 Ms. Floreen is next.

24
25 Council President Leventhal,
26 Yes, Ms. Floreen?

27
28 Councilmember Floreen,
29 Thank you, gee, I don't know how our kids are going to be able to live here if we don't
30 do something. I know my children live in different parts of the country, share apartments
31 in Brooklyn and in San Francisco, where they have comparable housing prices and
32 they're all looking to move. Because of the cost of living where they live. Our children
33 face these issues here, as well. I think if we can adopt the legislation and Zoning Text
34 Amendments as submitted, we really will be building on the groundbreaking work on the
35 MPDU law 30 years ago. How do we find housing for families of average means? It's a
36 challenge. I think we're probably pushing the limit on what we're doing here in terms of
37 financial feasibility. We've asked a lot of hard questions about this and we've gotten
38 very good engagement from all stakeholders. I think that's been very useful. But the fact
39 of the matter is we have very few options. I don't disagree with anything Ms. Praisner
40 has said, how do we preserve what we have? How do we get a little bit more of what we
41 need? We have to think creatively. And we have to try because one thing I learned here
42 in four years, if you don't try, you're not going to get anywhere. So, I think this is a
43 tremendous advance in the arena of affordable housing for the average family. I think
44 it's probably groundbreaking, as usual here in Montgomery County, I'm not sure there's
45 any place else in the country that has tried to load a Workforce Housing program, on top

June 20, 2006



1 of a successful moderately priced oriented program of the nature that we have here. I
2 think we've worked hard on trying to find a balance between priorities, we've built upon
3 issues, we've worked through with the MPDU flexibility provisions we added a couple of
4 years ago. The jury is still out on all of this, but the real, I think the real question that I
5 hope we can answer here is that we are committed to finding solutions for housing
6 needs. That's going to require some give and take from everybody at every table. It's
7 going to require some agreement that if we care about affordability in housing prices,
8 we will see more density at places where it should be located. Maybe a little bit more
9 land coverage, maybe a little bit more height. It's going to depend on the project. But
10 where else can we do this if not at our metro stations? There really isn't a place. We've
11 locked up the agricultural reserve. There are very few pieces of land elsewhere in the
12 County where new housing initiatives can be supported, and we remain committed to
13 our suburban character elsewhere. That means if we're going to see housing, we need
14 to see it around metro stations. We need to find ways, we need to continue to support
15 the housing initiative fund. I think the next quest is financing support for affordable
16 housing elsewhere and within the metro stations. Tax credits and the like, other ways to
17 make the balance sheets work better. So, we will see what the results are and we will
18 continue to listen to the concerns that everyone's raising as to whether or not these
19 projects are feasible. It's not a question of making a profit from these units, it's a
20 question of getting a bank to loan you some money to build them in the first place. And
21 that is the challenge I think with housing affordability. The construction costs continue to
22 rise. The financing issues continue to alter as interest rates go up. There are going to be
23 a lot of new variables in the housing market that are going to affect the production of
24 housing, regardless of what this council does. So, I think we're in a very good position at
25 least at this point in time, to stake a claim that we're going to get some more housing
26 that is affordable to the average family. We're going to continue to support HOC's
27 initiative. We're going to continue to support the most needy, as well. But the fact of the
28 matter is we need to continue to support our community with incomes of all levels. The
29 question of Workforce Housing is a level that we haven't addressed before. So, I urge
30 my colleagues to support what the committee has recommended. We've spent a lot of
31 time asking a lot of hard questions and listening very carefully to the answers. I think
32 we've worked out a good compromise on the issues that are, the classic ones, the
33 questions of compatibility, the questions of financing, the questions of feasibility. I'm
34 sure if everyone goes away from this a little bit unhappy, I think we will have been
35 successful. Because we will have established a claim to a new housing initiative.
36 Thanks.

37
38 Council President Leventhal,
39 Chairman Silverman?

40
41 Councilmember Silverman,
42 Okay. The good news for our colleagues is that we have agreement on virtually
43 everything. So, I'm not going to suggest we can zip through any of these things, but
44 there are a lot of 3-0 votes on some of these things. So, let's start with page 2. First
45 issue, should Workforce Housing be only available to certain types of employees? This

June 20, 2006



1 is a continuing discussion that this Council has had about whether we want to have
2 programs that are targeted for public employees versus private sector employees, and
3 even within the public employee arena, how do you decide which public employees you
4 want to talk about? That's cops, firefighters, teachers thing rolls off our tongue very
5 easily. But there are a lot of librarians and a lot of bus drivers and a lot nurses and
6 obviously a ton of private sector employees. So, the bottom line is, the committee
7 recommendation was to establish this as we have done with the MPDU ordinance,
8 which is to have it based on income and other eligibility issues, but not based on
9 employment status.

10
11 Council President Leventhal,
12 There are no questions Mr. Silverman, keep going.

13
14 Councilmember Silverman,
15 Okay. Second issue, what income eligibility limits should apply? We are targeting this at
16 a definition of Workforce Housing that has income levels at or below 120%. Where does
17 that number come from? That's considered to be the current, I guess vernacular for
18 Workforce Housing that's being used throughout the country. We now have a MPDU
19 provision at a maximum 70% of the average median income so this is designed to
20 basically define Workforce Housing as housing affordable, at or below 120% of AMI. We
21 would leave it to the regulation to, which would be done over the next few months, if it
22 the legislation passes, to specify that the Workforce Housing is available to a range of
23 incomes, not just at or near 120%. The regulation, the MPDU law doesn't actually
24 specify the maximum income. That is set by regulation. However, we received a lot of
25 comments from the public and we made a lot of comments to the public about
26 Workforce Housing. What it is and what incomes it will serve and the committee agreed
27 that we ought to have in the law a 120% maximum. Linda, for the benefit of everybody,
28 since these are just percentages, could we give, who's got numbers on what the real
29 dollars are for different income? Is that, I was trying to find...

30
31 Linda McMillan,
32 I don't know if Sharon has the most recent, Sharon always the most recent, but it's
33 about \$90,000 for a family of four, is is the average median income. So, for some of the
34 units we were talking about, because we were expecting be average of more than two
35 people, maybe two people and a child. The range we generally were looking at was
36 about \$75,000 for a household income.

37
38 Councilmember Silverman,
39 You have to speak up.

40
41 Linda McMillan,
42 About \$75,000 for a household income of just over two, about \$90,000 is average
43 median. 100% of average median for a family of four.

44
45 Councilmember Silverman,



June 20, 2006

1 So, 120% gets you to what, 110?

2
3 Linda McMillan,
4 110.

5
6 Councilmember Silverman,
7 Give or take.

8
9 Linda McMillan,
10 About 108.

11
12 Councilmember Silverman,
13 Okay. So, that would be the, 118 would be the max and the regulation, which we would
14 review and vote on, again, assuming the legislation passes, which we would take up in
15 the fall, would specify target range for a mixture. So, it would not be a situation where all
16 the units would be at 120%. It would be up to us working with the department for what
17 the target goals would be so that you'd have a mixture of 80 to 100% AMI.

18
19 Councilmember Praisner,
20 Mr. Knapp, on that issue, go ahead.

21
22 Councilmember Knapp,
23 Just to recognize that this changes, or the change may affect specific situations, but if
24 for sake of argument we've got someone between the 90 and 118, what does that
25 correlate to roughly for house price that they'd likely qualify for, recognizing that there
26 are caveats there? Assuming some percent down.

27
28 Linda McMillan,
29 When we looked at the average income at being about \$74,000, which is part of our
30 economic analysis, the rents that we were looking at would have been about \$1,800,
31 and the sale prices would have been, when we looked at \$81,000 on sales prices, about
32 \$280,000.

33
34 Elizabeth Davison,
35 There are a number of issues related to that, including condo fees, interest rates,
36 amount of down payment, so...

37
38 Linda McMillan,
39 A change.

40
41 Elizabeth Davison,
42 We're just beginning to work on looking at some of these things, trying to make some
43 determinations for this population group, what an appropriate level of down payment to
44 assume, there is some issue about asset past that the PHED committee asked us to



June 20, 2006

1 factor into this. I think right now it's we're not entirely certain what the range is going to
2 be.

3
4 Councilmember Knapp,
5 So probably the lower end is going to be 280 K given what just said Linda, and then...

6
7 Elizabeth Davison,
8 It probably will be up to 325-340, something like that.

9
10 Councilmember Knapp,
11 I'm just trying, I'm just curious...

12
13 Elizabeth Davison,
14 And also a little bit more of a down payment and depending on what kind of financing is
15 available to the individual.

16
17 Councilmember Knapp,
18 Is there...

19
20 Councilmember Praisner,
21 But they're not all purchased, some of these are rentals.

22
23 Linda McMillan,
24 Right.

25
26 Councilmember Knapp,
27 Is there, or did the community discussion talk about this, kind of people would be
28 eligible in this Workforce Housing as to the assumption that they're all buying homes for
29 the first time...

30
31 Councilmember Silverman,
32 No.

33
34 Councilmember Praisner,
35 No.

36
37 Linda McMillan,
38 There's an issue later and discussion about that because this is different than
39 somebody coming into the MPDU program. You might want people, for example as we
40 talk about this later, people who have been in and MPDU, you might want them to move
41 into Workforce Housing. So, there was a discussion of that.

42
43 Councilmember Knapp,
44 Okay. Okay, thank you.

June 20, 2006



1 Councilmember Praisner,
2 Go ahead. No more lights.

3
4 Councilmember Silverman,
5 Okay, no. 3, we're on page 3, should any preference be given to County residents or
6 people employed in the County? We had extensive discussion about the lottery system
7 that is currently used in the for sale MPDUs, which has a preference element that
8 awards points for living and working in the County. Rental MPDUs are not out through a
9 lottery system, but require an eligible person with a valid certificate to contact landlords
10 directly. The Committee recommended unanimously that the regulation include a point
11 system similar to is that used in the MPDU program. If you look at the box on top of
12 page 4, you will see what the current MPDU regs provide. Preference should be given
13 to applicants with a connection to the County, which could include people already living
14 or working in the County or having an offer of a job in the County. HOC indicated to the
15 Committee that it's used is the criteria that somebody either lives, work, or has gotten
16 notification of a job in Montgomery County. Again, the committee recommendation, as a
17 rule regarding rental unit, should mirror those used in the MPDU program, including a
18 recertification process to determine if household income still qualifies. So, we're
19 essentially patterning what this would be after the MPDU legislation and, again, is
20 designed to be broad enough to have situations where somebody has a job offer, either
21 through us or the private sector and wants to live in Montgomery County and would
22 therefore would be eligible as opposed to someone who is already here. If this follows
23 the pattern of the MPDU program, there will be a waiting list and there will be a lottery
24 system. I mean that's what the expectation is.

25
26 Councilmember Knapp,
27 Lots of questions. So, there's a waiting list, assume a waiting list and a lottery system.
28 Refresh us, how does the point system then work in the lottery system? You have to
29 have so many points to then rise to the top to be eligible to be in the lottery?

30
31 Elizabeth Davison,
32 You get a point for working in the County, a point for living in the County and you can
33 get points for how long you've been on the list.

34
35 Councilmember Knapp,
36 Right.

37
38 Elizabeth Davison,
39 One of the issues that has not been determined yet is whether we're going to create a
40 list or whether we're going, a waiting list kind of situation or whether we're going to have
41 this qualify people when projects come up. Part of our concern is that these income
42 limits are well above the median income for the U.S. and so we could have enormous
43 numbers of people and we could spend a huge amount of time qualifying them, but
44 there really aren't any units. And I'm not sure that that's the best use of our staff time.



June 20, 2006

1 So, I think we're going to have to do some work, roll up our sleeves on this. This was
2 one of the issues that was left for the executive regulation...

3
4 Councilmember Knapp,
5 I guess I'm still confused, though, so, you have this point system and is this point
6 system just one set of criteria? So, this is weighted 25% of 100%, or is it these points
7 that...

8
9 Elizabeth Davison,
10 What happens is, first of all you have to be qualified for the program.

11
12 Councilmember Knapp,
13 Right.

14
15 Elizabeth Davison,
16 So, you apply and we look at your income and...

17
18 Councilmember Knapp,
19 Once I cross that threshold I'm in some an applicant pool.

20
21 Elizabeth Davison,
22 Right. Then when a project comes up if units are available, if you said I want a
23 townhouse with a certain number of bedrooms, you would get a postcard or a letter
24 saying this is available, if you're interested, sign up, let us know. Of the people who say
25 they're interested, then we look at the number of points they have and typically we'll
26 take the people with the highest number of points, put them into the lottery.

27
28 Councilmember Knapp,
29 Okay.

30
31 Elizabeth Davison,
32 So, if you only had one point, you probably wouldn't get in the lottery.

33
34 Councilmember Knapp,
35 Okay, that's what I was trying too get a sense of. You whittled it down, and then once
36 you get down to some number. Those people, the same number of points, ten people
37 would then be in a lottery and you'd draw their name...

38
39 Elizabeth Davison,
40 Right, they draw the name, they don't have to buy the units but they're given the
41 opportunity to, if they drop out, we pull more names.

42
43 Councilmember Knapp,



June 20, 2006

1 If I were in the lottery and for whatever reason my name was selected and I chose not
2 to purchase that unit, what happens? Do I just get back on the list, where I was on the
3 list before, or drop back down to the bottom?

4
5 Elizabeth Davison,

6 It isn't a priority list. It's just point. People and points. Group of points. So, you would be
7 back on the list. So, there might be another development that came up but whether your
8 name would be pulled for the next one would be unclear. So, you're taking a bigger risk.
9 So, the bird in the hand issue.

10
11 Councilmember Knapp,
12 Right. Okay. Thanks.

13
14 Council President Leventhal,
15 Ms. Praisner.

16
17 Councilmember Praisner,

18 We had some discussion about that issue, and it just seems to me, and I think the
19 Committee agreed with me that you can fill out an application and sign that you comply
20 with the certain requirements, and based on that you can be assigned certain points, et
21 cetera, but that the checking and verification needs to occur when your number comes
22 up, so to speak. So there isn't, there really isn't additional work of double checking,
23 because there's going to be such a lag time, that it doesn't seem useful in my view to
24 spend a lot of time at the initial review, and therefore the discussion we had about need
25 for additional staff, or the burden of that is actually one that occurs. The burden if any
26 occurs when your actually checking and you can start with an assumption that people
27 have signed or accurate about what they signed.

28
29 Council President Leventhal,

30 Are the price controls in this program the same as MPDUs 20 years for owner-occupied
31 units, and 90 years...well, we'll get there, but fine, but my question is this, over the time
32 frame in which you live in the unit, if you qualify your income is below 120% of median,
33 we don't check again? Presumably your in, your in, so that once your income goes
34 above 120% of median, you're fine.

35
36 Elizabeth Davison,

37 For sale, for the rentals we check after what, two years? Once a year for the rentals.

38
39 Council President Leventhal,
40 Okay, Mr. Silverman.

41
42 Councilmember Silverman,

43 Sure. Item four is should eligibility be limited to first time home owners? The committee
44 recommended that Workforce Housing should not be restricted to first time
45 homeowners, because it should be open to persons who might want to move up from



June 20, 2006

1 an MPDU, or who would stay in the County if a unit becomes available. And the
2 implementation regulation should address any need for an asset study in addition to
3 income requirements to avoid a windfall scenario, but again, depending so much of this
4 is going to be a function of the overall market. Remembering that this is a percentage
5 issue, so depending on how many units are available, how long the waiting list is, you
6 may have folks who want to move from MPDU status into Workforce Housing status.

7
8 Council President Leventhal,
9 Okay, next issue.

10
11 Councilmember Silverman,
12 No, okay.

13
14 [LAUGHTER]

15
16 Councilmember Silverman,
17 All right, number five, in what size subdivision should Workforce Housing be required?
18 Should projects developed under and Affordable Housing Tax Credit program be
19 exempt? The Workforce Housing Program is focused on Metro station policy areas, it is
20 not applying in all zones, and the committee recommendation is to require that
21 Workforce Housing in any subdivision of 35 or more market rate dwelling units in zones
22 designated in the zoning law. Did we clarify?

23
24 Elizabeth Davison,
25 The actual zones aren't in the bill.

26
27 Councilmember Silverman,
28 No, no, no, no, no, I wanted to get to the...did we clarify that you have to have at least
29 35, right 35 or more market rate dwelling units. Right, okay So we had a couple, we had
30 sort of a "subquestion" here about happens when they're are projects that are done
31 under affordable housing tax credit programs. The Committee had a split on this. Ms.
32 Praisner and I recommended that any dwelling unit built under a government
33 requirement that it be affordable to households earning less than 60% of area median
34 income, which are known as tax credit units be excluded from the units used to
35 determine the number of Workforce Housing units. If the total number of these units
36 exceed the number of Workforce Housing units, the law requires that no Workforce
37 Housing units would be required. Ms. Floreen recommending exempting tax credit unit
38 projects entirely, because they must have 20% controlled units, and in most cases the
39 remaining market rate units are targeted toward more moderate incomes. To try to put
40 this in English, Linda, go right ahead.

41
42 [LAUGHTER]

43
44 Linda McMillan,

June 20, 2006



1 The majority of Committee basically is saying that if the number of tax credit units would
2 be equal or greater than what you would have to have provided in MPDUs and
3 Workforce Housing, then that would be sufficient. You would have met your
4 requirements, you wouldn't have to have Workforce Housing...

5
6 Councilmember Silverman,

7 Right, there's an opportunity here if you've got 15% MPDU scenario with 10%
8 Workforce Housing, you'll get to 25 %, if you've got situations where you've got projects
9 that only 20%, that are qualified for federal tax credits, you may have a project that is as
10 low as 20% of the units are qualified for federal tax credits. Ms. Praisner and I believed
11 that we ought to make sure that you get to the 25% combination MPDU and Workforce
12 Housing.

13
14 Linda McMillan,

15 And I think the discussion for Ms. Floreen's position was it has to have so many percent
16 of these units that are serving lower income, and generally what we heard from HOC
17 was that the projects also generally are serving more affordable income, and I think for
18 ease of administration, Ms. Floreen thought that if they were under this agreement they
19 would just be exempt from Workforce Housing.

20
21 Council President Leventhal,

22 Okay, Ms. Floreen followed by Mr. Perez.

23
24 Councilmember Floreen,

25 Well, that's correct, this is a small disagreement, surely, but the, I was just simply
26 concerned. Basically the market rate units have to bear, support the other units in these
27 kinds of projects, and the unit, the tax credit unit projects, this was really an education
28 about those projects as well. And maybe Mr. Minton can help me out here, but they are
29 serving a more targeted population than the regular MPDU program, and do you want to
30 back me up on this Scott?

31
32 [LAUGHTER]

33
34 Scott Minton,

35 Sure, the tax credit units are below the MPDU level, and 20% is the minimal, we try to
36 get more where we can, and using Wheaton Metro, which is the project we're building
37 right now, we're going to go with a 30% tax credit property. Which would be more than
38 the MPDU requirement and the Workforce combined. That's not always the case, I think
39 that...

40
41 Councilmember Floreen,

42 The real distinction I think would be where the number of units being produced are less
43 than 25% really. So, that's really the extent of the concern I think. We are all in
44 agreement where, that they would be counted as Workforce type, satisfying the
45 Workforce objective if the number is greater, and it's really a question of exempting

June 20, 2006



1 those projects where it's less than 25% overall? Is that what we were talking about, or
2 22%?

3
4 Scott Minton,
5 Depending on which method you use, I would personally like to say 25% because, you
6 know, we in HOC when we finance a property, a lot of the tax credit properties, whether
7 done by private developer or us, finance ourselves. We try to get above the 20%
8 minimum, and this would be another incentive to do that. If you said 25%.

9
10 Councilmember Floreen,
11 So if it's that 25% would satisfy both requirements, so to the extent that that, you think
12 that it's a incentive to insure the 25% be achieved? I'm not going to push my point. The
13 real question is protecting the feasibility of other projects. But you think it will help?

14
15 Scott Minton,
16 I think it could. One of the things that we bring tax credit equity into it, it helps the
17 feasibility of the project in most cases. So, I don't think...for a rental property, right now,
18 with tax credit that saying that most of the market rent in the County right now are within
19 the Workforce range. So, I don't think you're going to be inflicting a lot of pain on the
20 developer to have a Workforce requirement, or to make sure you get the full 25% of the
21 units.

22
23 Councilmember Floreen,
24 But you think we can get the 25% percent.

25
26 Scott Minton,
27 I think we can.

28
29 Councilmember Floreen,
30 Okay, all right.

31
32 Council President Leventhal,
33 The last question goes to Mr. Perez at which point we will recess, well we won't recess,
34 we will move downstairs to the third floor conference room to interview Mr. Dodge. Mr.
35 Perez you have the last word for this morning.

36
37 Councilmember Perez,
38 Okay, I share Ms. Floreen's concern. I'm thinking about all the tax credit projects in the
39 County, and thinking about the Gramex building, and thinking about a number of other
40 HOC projects, and they are very difficult and challenging needles to thread, and one of
41 the broader questions I am asking in the context of this bill is, which I ask in the context
42 of every bill, is what is the doctrine of unintended consequences. What are the
43 unintended consequences of the establishment of new requirements. In this context I
44 have, and I would like between now and next week to really learn a lot more about
45 whether we can have an educated guess, judgment about the unintended

June 20, 2006



1 consequences of a requirement that will make deals that are very difficult. Which is one
2 reason why Gramex was a rat motel for over a decade. I'm very concerned that this
3 requirement may be that tipping point in these tax credit projects, and so in the pursuit
4 of a dozen Workforce units we are doing that, we are having the unintended
5 consequence of doing that at the expense of units that were designed for people living
6 below 60% of area median income, or certainly living in the...worst economic straits,
7 and I'm not persuaded at this point that this juice is worth the squeeze, as it relates to
8 tax credit deals. Which seem to invariably be projects that are doing good by a lot of
9 people. So, I simply want to throw it out there, I don't doubt, obviously I'm not impugning
10 the sincerity of anybody here, I'm just pointing out the doctrine of unintended
11 consequences, and my continuing concern as it relates to this, and I'd like to learn more
12 between now and next week, because I'm wrestling right now with whether to join Ms.
13 Floreen in a motion to simply exempt tax credit deals, and it may be that in certain
14 Metro station areas the economics are changing and are such that maybe these can
15 work, but I'm not persuaded of that at the moment, and I keep thinking about places like
16 Gramex, which I think would be in a Metro station policy area.

17
18 Scott Minton,
19 It is.

20
21 Councilmember Perez,
22 And, you know, the notion that you had another requirement, another needle to thread
23 on a project that was very difficult to begin with, gives me great concern.

24
25 Scott Minton,
26 The Gramex one was 100% tax credit or 95%, which you get into, by the definition of
27 law there is no market...

28
29 Councilmember Silverman,
30 It wouldn't have been covered by this.

31
32 Scott Minton,
33 We don't have any market units at all.

34
35 Councilmember Perez,
36 Well, your other project that, you had a couple of others...

37
38 Scott Minton,
39 The one at Wheaton Metro that we are doing falls within this category, and the question
40 would be is, we're doing 175 units, 53 of which are affordable, we -- tax credit or below -
41 - would the law require us to, do the difference there, 12 Workforce units in that
42 property, and I guess that's the question. We're doing 30% affordable, would you want
43 the law to require 10% of the market units, which as an additional in that project.

44
45 Linda McMillan,

June 20, 2006



1 And the Committee recommendation wouldn't apply there either, because you're doing
2 30%.

3
4 Councilmember Silverman,

5 I mean, I appreciate what's being said, the issue was if you go with the lowest end,
6 because technically you can do 20% and still be a federal tax credit project, do you
7 basically say that you don't do that extra 5%. That's essentially what we're talking about,
8 and that's...

9
10 Linda McMillan,

11 It's a few numbers of units, but it is this issue of would you want to maximize the number
12 of units required.

13
14 Councilmember Silverman,

15 Yeah, and I should also say just in closing, we certainly haven't gotten to all the issues,
16 but we have, the Committee recommended, I believe unanimously that we have an
17 extremely broad grandfathering provision. I mean this is not the we're cutting it off at a
18 certain point, so we'll get to that. But the point is whatever would appear to be anywhere
19 even close to being in play is not going to get covered by this. We're trying to write a
20 truly prospective ordinance here. So there may be in the next week or so more
21 communications, which is fine, the threshold question to ask everybody is whether or
22 not they're going to get covered by this or not. And we've had a lot of conversations, a
23 lot of Committee work session on this issue to make sure that we were not ensnaring
24 anybody who's filed a preliminary plan, or whose filing next week, et cetera, et cetera.
25 So thank you.

26
27 Council President Leventhal,

28 All right, very good. We're going to move immediately downstairs to the third floor
29 conference room to interview Mr. Dodge for the Planning Board. We will have five other
30 Planning Board interviews this afternoon, we're moving please immediately downstairs,
31 third floor conference room.

32
33 [MUSIC]



1 Councilmember Praisner,
2 Good Afternoon Ladies and Gentlemen. This is a public hearing on Bill 17-06, Buildings
3 – Energy Efficiency and Environmental Design, which would require certain
4 nonresidential buildings and multi-family residential buildings to achieve certain
5 standards relating to energy efficiency and environmental design, require certain
6 applicants for preliminary subdivision plan approval, site plan approval, or a building
7 permit to submit certain plans relating to energy efficiency and environmental design to
8 the Department of Permitting Services for approval. Require the Department of
9 Permitting Services to approve an energy efficiency and environmental design plan as a
10 condition of certain building permits. Make certain building owners comply with certain
11 standards relating to energy efficiency and environmental design eligible to receive
12 certain incentive payments. Define certain terms and generally amend the law relating
13 to the construction of buildings, development review, building permits, energy and
14 environmental design. This is also a public hearing on Zoning Text Amendment 06-16.
15 Site plans, Energy Efficiency and Environmental Design, which would require that a
16 proposed site plan for a project that includes a nonresidential building or multi-family
17 building that is larger than a certain size contain for each covered building, certain plans
18 relating to energy efficiency and environmental design. Require that a site plan comply
19 with certain requirements relating to energy efficiency and environmental design and
20 generally amend the law related to site plans. This is also a public hearing on
21 Subdivision Regulation Amendment 06-01, Preliminary Subdivision Plans, Energy
22 Efficiency and Environmental Design, which would require that an application for a
23 preliminary subdivision plan for a project that includes a nonresidential building or multi-
24 family building that will be at least a certain size contain a certain plan relating to energy
25 efficiency and environmental design. Prohibit the Planning Board from approving a
26 preliminary subdivision plan for a project that includes a nonresidential building or multi-
27 family building, that will be at least a certain size, unless the applicant has submitted a
28 certain plan relating to energy efficiency and environmental design, and generally
29 amend the law relating to subdivision plans. A Transportation and Environment
30 Committee work session will be scheduled at a later date. Persons wishing to submit
31 additional information for the Council's consideration should do so by the close of
32 business June 27th, 2006. Before beginning your presentations, please state your name
33 and address clearly for the record and spell any unusual names. We have two panels.
34 The first panel is Mr. Hubbard, for the County Executive; Gil Genn I believe it is, not Gil
35 Green as it is on our packet; Vicki Worden for the Green Building Initiative; Michael Bell
36 Maryland National Building Industry Association; and Wayne Goldstein for the
37 Montgomery County Civic Federation. If all of would you come up, please.

38
39 Council President Leventhal,
40 Mr. Hubbard, as soon as you're ready, press the button and introduce yourself and
41 begin .

42
43 Robert Hubbard,

June 20, 2006



1 Good afternoon, my name is Robert Hubbard. I'm the Director of the Department of
2 Permitting Services, and I'm here today representing County Executive Douglas Duncan
3 in support of Bill 17-06. This year on Earth Day the County Executive applauded
4 Council President George Leventhal's leadership in promoting Green Building initiatives
5 through the introduction of this bill. At that time the Executive committed himself to
6 working with the group for the bill's adoption. Therefore DPS, DEP, and other relevant
7 county departments will work closely with the County Council and the T&E Committee
8 to refine this bill to make certain that buildings covered by the legislation meet minimum
9 performance standards critical to sustainable and Green Building development and to
10 encourage developers to produce higher performance Green Buildings. We want to
11 make certain that Green Building concepts are incorporated at the inception of building
12 design and not proposed as an afterthought merely to satisfy the minimal standard.
13 However, as we impose regulatory mandates we want to be certain the mandates are
14 within the critical path of the development process at the appropriate time. For instance
15 is it premature to ask for a Green Building concept plan at the time of subdivision when
16 the subdivider may not be the builder? Conversely, is the building permit application too
17 late because the builder may have already finalized design and construction contracts.
18 In our capacity as regulators DPS looks forward to its role in the implementation of this
19 legislation and will provide its expertise to achieve the intended level of education,
20 oversight, and enforcement anticipated by the legislation. The options range from third
21 party certification performed by Lead Certified and Registered Design Professionals to a
22 comprehensive Green Building plan review conducted by the county staff at building
23 permit approval, and required inspection by County Inspectors during the course of
24 building construction. The bill may also necessitate or mandate preapplication meetings
25 with a design team and County Lead Certified Reviewers to agree on a Green Building
26 design approach. Similarly a discussion must ensue on the package of incentives and
27 the level at which incentives are provided. Such incentives are effective enough to
28 encourage higher performance green buildings. We must look to the other programs
29 that have been established within other jurisdictions such as Portland, Oregon; Austin,
30 Texas; and Arlington, Virginia, to learn from their success. I know through meetings
31 we've already conducted to review this legislation my counterparts in the Department of
32 Environmental Protection and Park and Planning are poised today assist in this effort.
33 Multiple Executive Branch Departments and other agencies have all ready collaborated
34 on suggested amendments to the bill and we look forward to sharing our thoughts at the
35 appropriate T&E Committee meetings. I can assure you that we in the Executive Branch
36 are eager to see the Council adopt this bill and for us to begin its implementation. Thank
37 you.

38
39 Council President Leventhal,
40 Thank you very much, Mr. Genn.

41
42 Gil Genn,
43 Thank you Mr. President, distinguished members of the Committee Council. Gil Genn
44 on behalf of the Green Building Initiative. I've submitted testimony that includes two bills
45 that we were successful in passing before the Maryland Legislature. One dealt with



June 20, 2006

1 making the GBI co-equal with the Green Building Council in terms of procurement
2 matters, and that was Senate Bill 92, passed in the 2005 session. And indeed also
3 making the GBI a co-equal with the Green Building Council in terms of adding them in a
4 task force that just passed in 2006. We commend everyone here for this bill, however,
5 we do have some concerns and we'd like to make this legislation a little bit better. And
6 for that I'd like Ms. Vicki Worden from the GBI to discuss our specific suggestions for
7 improving this legislation. Thank you.

8
9 Council President Leventhal,
10 Ms. Worden.

11
12 Vicki Worden,

13 Okay, Vicki Worden in Tarragon Lane, Edgewater. And what we would like to talk about
14 -- and thank you for the opportunity, thank you for letting us come in and talk about this -
15 - is the opportunity that you have to reconsider how the bill is drafted right now to get to
16 the actual intention of the bill, which is higher performing buildings. One of the primary
17 things that is happening in the bill right now is that you are sole sourcing a single
18 building rating system. What we think is actually more important is to spell out in the bill
19 actual building performance criteria, because anyone who works with building rating
20 systems will tell you that there is no guarantee based on a building rating on how a
21 building will perform. And as drafted, this legislation is well intended, but it could lead to
22 more point chasing from design teams that are more focused on how to get 20 points or
23 24 points than in actually getting reductions in energy consumption and reductions in
24 water and lower impact on the environment. That's our primary concern. Our second
25 concern is again, the sole sourcing. We have introduced an alternative to Lead in the
26 marketplace, it comes from Canada. It's being used by the Canadian Federal
27 Government and the private sector to evaluate their entire portfolio of buildings. And
28 we're developing it here in the United States as an American National Standards
29 accredited body. And we know it is already very useful in the market. We have
30 numerous projects underway. And the market needs more than just one solution, one
31 opportunity to rate building rating system -- to rate buildings, and sole sourcing as we
32 have it now in this legislation stifles competition. And we need more people talking
33 about best practices, not just one organization defining what is a good practice or a bad
34 practice, what is good science, what is bad science, we need more. And we have way
35 too many buildings right now to have one sole rating system. So we have supplied back
36 up documentation, including the Memorandum of Understanding that was signed by 20
37 federal agencies that includes specific performance criteria that the Federal
38 Government wants its buildings to perform to. They did not sole source a rating system,
39 in fact, they're neutral to rating systems. What they did is say no one rating system does
40 everything we want it to do. Let the marketplace compete, let's find some tools that can
41 help our teams design better buildings and evaluate those buildings. So Green Globes
42 and Lead are free to compete as well as any other new systems or solutions that come
43 along. And that is what we encourage you to do as well. Thank you.

44
45 Council President Leventhal,

June 20, 2006



1 Thank you, Mr. Bell.

2
3 Michael Bell,

4 Good afternoon, President Leventhal and members of the Council, my name is Mike
5 Bell. I'm the President of the Bell Company, and I'm testifying today on behalf of the
6 Maryland National Capital Building Industry Association. MNCBIA represents over 750
7 residential building industry professional firms operated in Montgomery County as well
8 as five counties in Maryland and the District of Columbia. Green Building is not a new
9 issue, as reflected, I am also a founding member of the National Association of Home
10 Builders Green Building Committee which was established in 1998. You have our
11 testimony before you ,however I intend to focus on just a few points. MNCBI endorses
12 the concept of green building and supports voluntary builder and market driven
13 solutions for green building remodeling. As you know builders and developers already
14 comply with building regulations, stormwater management requirements, landscape
15 guidelines, on-site forestation, green space over the space set-asides that are
16 environmentally friendly and green. We believe that green building is an evolving
17 process that should be a voluntary, rather than a mandatory program, especially if the
18 mandate relies on a single green building standard. Green building standards are work
19 in process, there is more than one standard and upgrades and adaptations are
20 constantly made. Builders should be able to use the standards that work best for
21 specific projects. Other standards exist besides Lead rating system that are appropriate
22 for residential construction. We propose that language that acknowledges and allows for
23 the existence of other equally green programs should be included. The state uses
24 20,000 square feet as a threshold after determining that buildings of less than 20,000
25 square feet have economic limitations. We propose that the threshold be raised to
26 20,000 square feet in accordance with what the state has said. Several concerns we
27 had with definitions, how the bill addressed townhouses have been addressed by
28 language offered by DPS and we're in agreement with those. A key component that's
29 not addressed is what to do when a property owner simply cannot build green. A waiver
30 for hardships and the criteria for such be incorporated. The last item we believe needs
31 to be revisited is the act of the building and grandfathering of the application is not yet
32 filed. Projects developed in Montgomery County require months of preparation,
33 countless hours with engineers, planners, counter-agencies, state agencies, and most
34 recently required meetings with community before application. To have this bill applied
35 to preliminary plan applications and site plans filed the day the Council acts will
36 mandate that the applicant redesign the plan and buildings incurring additional costs
37 and time. To apply this bill to building permits filed on or after the date the act takes
38 effect it will require that applicants return to the Planning Board for major plan
39 amendments that are already approved. We would request that this bill, if enacted, be
40 effective 120 days after passage so as to allow applications in process to make their
41 way through. Thank you for the opportunity to comment on the legislation. We welcome
42 the opportunity to provide specific real world examples of what is involved in building
43 green.

44
45 Council President Leventhal,

June 20, 2006



1 Thank you very much. Mr. Goldstein.

2
3 Wayne Goldstein,

4 I'm Wayne Goldstein, President of the Montgomery County Civic Federation and a
5 member of its Environment Committee. In 2001, five years ago, the city of Portland
6 Oregon began its Green Building program. In July 2002, four years ago, the U.S. Green
7 Building Council, USGBC, approved Portland Green Building standards, the first local
8 version of the Lead rating system to be approved. Portland Lead tailors the national
9 building standards to the city's needs while the USGBC verifies and officially projects --
10 certifies projects that meet Lead standards. In November 2004, 19 months ago, the
11 Willamette Greenway Pavilion -- containing retail, research, and residential -- became
12 the first building in Portland and in Oregon to receive Lead Platinum Certification. In
13 February 2005, 16 months ago, two Portland projects were profiled that seemed to be
14 vying for the title of First Lead Platinum Accredited Multi-family Housing Projects in the
15 United States. The author wrote, "Having ultra-sustainable buildings here is certainly a
16 source of pride and beyond that it's just the most prudent way to build." Although
17 economics of first costs always have to be a consideration, it is encouraging that more
18 and more for profit developers are seeing that long-term life cycle costs are ultimately
19 much more important. In April, 2005, 14 months ago, Portland City Council despite
20 Portland's leadership in high performance Green Buildings, low impact development
21 and smart growth voted to improve and expand the four-year-old Green Building policy
22 to include that all new city facilities must meet Lead Gold Level. Buildings, meaning
23 buildings constructed, owned, leased, and managed by the city of Portland. Major
24 retrofits and existing occupied buildings would need to meet Lead Existing Building
25 Silver Standards. And tenant improvements would need to be Lead Silver. In addition,
26 there was incentives provided to the private sector to meet Lead Silver registered --
27 registration through [what] process management and additional incentives. With several
28 Lead Silver private projects in the county and a handful of green roofs and
29 unenforceable promises by MCPS to build new facilities to Lead Silver standards,
30 Montgomery County is asking for 20 Lead points with incentives to reach 24. With Lead,
31 minimum certification at 26 points, Lead Silver at 33, Lead Gold at 39, and Lead
32 Platinum at 52; we are -- have a long way to go. In some ways this, what I would call
33 pale green building legislation by this body, is too little, too late. There is nothing that
34 can be done about the timing but there is plenty that can be done to greatly improve the
35 quality of this proposal. And I'm delighted to see that there are others offering their
36 advice and look forward to this becoming a much stronger bill before it is ultimately
37 passed. Thank you.

38
39 Council President Leventhal,

40 Okay, let me make a couple of comments, I see other lights on. I expect that it will take
41 some time to work through the issues involved here. So, I am wide open to conversation
42 with the parties here and other parties. And as several speakers have pointed out we
43 are -- as much as Montgomery County likes to call itself the best in the country, and the
44 first in the country, and on the leading edge of many issues, we are significantly behind
45 the curve, behind many, many, many other jurisdictions on the issue of green buildings,

June 20, 2006



1 including behind the District of Columbia just a few miles away, and behind Arlington
2 County just on the other side of the river. And as I got myself educated about these
3 issues and as I spoke with county officials, department heads, and industry
4 representatives it struck me that we have some distance to go to educate ourselves and
5 the industry that we work with about what it is we try to achieve here. In a few minutes
6 after we finish discussing this bill, we're going to discuss a resolution I've offered that
7 would increase the percentage of clean energy we are purchasing from what will be
8 10% beginning July 1st to 20% over time. It had always been my expectation with
9 respect to a green buildings approach that we might start at a low threshold to get DPS
10 and Park and Planning accustomed to working with new buildings, and then we could
11 always increase the threshold as time went by, just as we were increasing the
12 percentage of clean energy that we are purchasing. All of these things cost money,
13 whether they cost money up front, whether the money is repaid in life cycle costs. We
14 hope so, but these are things that may need to be ratcheted up as industry and
15 government become accustomed to working with them. I think the suggestions of BIA
16 for some reasonable grandfathering of existing permits, I'm certainly wide open to
17 having conversations about that. With respect to Green Globes, let me just make a very
18 important point. Ms. Worden said that we were sole sourcing a rating method for green
19 buildings, but in fact, under my bill, we are not procuring any rating system from anyone.
20 What I, in drafting the bill working with our staff, Kathleen Boucher, borrowed from the
21 District of Columbia's approach, is that we are not reliant on any outside entity, not the
22 Green Buildings Council, not the Green Building Initiative, not anyone to provide
23 Montgomery County's rating system. What we would do is that we, under the bill, would
24 produce through rule making a Montgomery County Environmental Certification
25 Standard for buildings that would be informed by Lead standards. So we are not
26 procuring one set of standards. We're not sole sourcing. The bill does not call for sole
27 sourcing. Now, I understand the Green Buildings Initiative would like us to use Green
28 Globes also to inform our rule making process. I've met with both of you, and I'm looking
29 forward to learning more about Green Globes, and I'm looking forward, along with my
30 colleagues, to have all of us understand this whole universe of environmental
31 sustainability and energy sufficiency and energy conservation and water conservation
32 and better building materials and better use of ambient light and all these issues, I think
33 we will all be better off for learning about them. I've had some opportunity to discuss
34 Green Globes with others who are practitioners in this field, and the description of it is
35 cautious, leaning towards negative. The established environmental community, such as
36 it is, has a concern that, because the timber industry originated the concept of Green
37 Globes, there is some suspicion of what's behind it. I'm very happy to learn more about
38 it. I'm not rejecting anything. I think we have time and we will take time to explore all
39 options. So I just wanted to make those comments, and I'm going to, well, I'll let
40 witnesses briefly say anything they want to say in response to anything I said. Yeah.

41 Vicki Wordon,

42 First, just to address the origin of Green Globes, it has evolved since 1996. It evolved
43 from the Breem Standard, which is one of the first green building rating methodologies
44 developed in the United Kingdom, came over to Canada, was developed through the
45

June 20, 2006



1 Canadian Standards Association International Consensus Process, and has since
2 evolved into a very user-friendly version that is now web-based. The wood products
3 industry helped to fund the origin of the Green Building Initiative, which is the
4 organization, has nothing to do with the standard. And our Board of Directors, it's fully
5 formed. Our technical Committee, again we are ANSI accredited. We're balanced. The
6 standard is online. There is no single industry that drives the standard. That's one myth
7 I'd like to put to rest today in Montgomery County. I would also like to say that
8 mentioning only one rating system reinforces the tendency to define sustainability for
9 buildings based on rating systems instead of on actual performance. And that is the
10 point that we really want to underscore is we're talking to legislators and regulators and
11 implementers, is that we're all focused on performance. And the tools that we use Lead
12 is one, Green Globes is one, there are others coming into the market. They are
13 products. And so our terminology probably should evolve, but sole source just basically
14 was indicating, in my testimony, the reliance of one system. And so we need to broaden
15 our thinking, and that's my comment.

16
17 Council President Leventhal,
18 Mr. Genn.

19
20 Gil Genn,
21 Mr. President, yes, we believe that it's essential to include the Green Building Initiative
22 language in the bill so that, when regulations are promulgated, they will have statutory
23 authority to look into that criteria. And we think that's exactly why the state, in its two
24 pieces of legislation, adopted that, so the rule making process at the appropriate
25 departments could look into the GBI standard. So we think it's absolutely essential that
26 the language of Green Building Initiative be included in the bill. Thank you.

27
28 Council President Leventhal,
29 What little, I'm eager to learn more about this. I'm enormously interested in this entire
30 field, and I'm looking forward, with the participation of Chairwoman Ms. Floreen, and Mr.
31 Perez, our lead member for the environment, in really delving into this subject in-depth
32 in our Transportation and Environment Committee. I was provided by staff with a copy
33 of an article from the "Washington Business Journal" that reported that legislators who
34 agreed to include the Green Globe Standard in the legislation that passed the General
35 Assembly did so because many members had timber interests in their district. I'm only
36 quoting what the "Washington Business Journal" reported. I don't bring bias to this. I just
37 want to state for the benefit of my colleagues that the suggestions that are being made
38 with respect to an alternative standard, thus far, have not been universally greeted with
39 a flame by others. And we don't need to have a debate here and now, because I am not
40 foreclosing anything as one Councilmember. I just wanted to be clear for the benefit of
41 my colleagues that, not surprisingly, these are not settled issues within the
42 environmental community, and they will take some thought and some discussion
43 amongst Councilmembers, and we'll have opportunities for that thought and that
44 discussion. Yes sir, Mr. Bell.

June 20, 2006



1 Michael Bell,

2 I'd just like to say to the Council, Lead for new construction when it was originally
3 developed, was developed for commercial projects. Does not work very well with high-
4 rise residential construction and does not deal with the issue of low-rise multi-family
5 residential construction, especially when it's done with timber frame and concrete
6 construction. One of the things the National Association of Home Builders did was put
7 together a set of guidelines for residential construction, both single family and multi-
8 family, that allows the builder to look at his product and how he builds it and look down
9 a list to figure out what it is that he can do to do to become greener. I do believe we
10 have made copies of those available, and if not, I will get copies for all of you.

11
12 Council President Leventhal,

13 Great, well as I say we'll have a lot of time to delve into the substance of this. Ms.
14 Floreen?

15
16 Councilmember Floreen,

17 Thank you Mr. President, I am worrying about the time we have to delve into this
18 subject, but I would ask...

19
20 Council President Leventhal,

21 I didn't mean today.

22
23 Councilmember Floreen,

24 I know. And I don't mean today, either. I would ask everyone who's testifying
25 substantively on these issues to provide us with as much detailed information as you
26 have at your disposal early on to get it to Ms. Boucher. I think what we're going to need
27 to do, Mr. President, is perhaps have a preliminary T&E meeting to sort out some of the
28 directions here. There's many issues in terms of substance, in terms of timing, and in
29 terms of the details of implementation that will devil all of these conversations. And we
30 may want to have a preliminary session, Kathleen, early on to sort of sort out the
31 direction of these pieces of legislation. I support the concept very strongly. Anyone to
32 went to listen to Al Gore last week And then, even more compellingly, Thomas
33 Friedman on Friday night down at the American Film Institute, talking about our future
34 and how we need to plan, indicated -- at least inspired me -- to become very involved in
35 this effort. But the devil is in all these details here, and we want to make sure that we do
36 it right and in a way that can be implemented effectively. So, Kathleen, I'd sit down, and
37 we'll have to sort out how we can -- with Mr. Leventhal and sort out how we can get the
38 involvement the of all the players early on and then chart out a course to implement it.
39 Thank you.

40
41 Council President Leventhal,

42 Mr. Denis?

43
44 Councilmember Denis,



June 20, 2006

1 Thank you, Mr. President. Thank you to all the witnesses. I want to particularly welcome
2 Delegate Gilbert Genn who I had the honor of serving with the in Maryland General
3 Assembly, and to thank him for his years of public service there and for what he's done
4 with his life since then.

5
6 Gil Genn,
7 Thank you, Senator.

8
9 Council President Leventhal,
10 Okay, great. That concludes Group A, thank you all very much. Group B includes Nancy
11 Soreng, Andrew Nazdin, Carol Barth, and [Ann Ambler]. Nancy, please proceed.

12
13 Nancy Soreng,
14 Hi. I'm Nancy Soreng from the League of Women Voters of Montgomery County . You
15 have my testimony. I'm not going to read it, I'm just here in my green dress to
16 encourage you to continue with your pursuit in trying to adopt some legislation that will
17 improve and protect the quality of the environment here in Montgomery County. There's
18 two national positions I'll just draw your attention to that I quoted in my testimony. One is
19 that the protection of natural resources is the responsibility of all levels of government,
20 and that's why we applaud you at taking this responsibility at the local level. And then
21 the other piece is that the National League says it's particularly important for urban
22 environments to pay close attention to air quality issues and water quality issues. As we
23 know, we are becoming indeed an urban environment. Thank you very much, I hope
24 that you can wade your way through all the details of this and come up with something
25 that's effective.

26
27 Council President Leventhal,
28 Thank you. Mr. Nazdin.

29
30 Andrew Nazdin,
31 Thank you very much for hearing me today. My name is Andrew Nazdin, and I'm here
32 on behalf of the Montgomery County Student Environmental Activists and the
33 thousands of other students who have voiced their support for the 20% clean energy
34 resolution. As young people we realize the dire and immediate threat that global
35 warming poses to our right to lead a normal life on this planet. Over the past few
36 decades this threat has embodied itself in the form of Hurricane Katrina, rampant
37 wildfires in the west, and 20 of the 21 hottest years since 1860. Although no disasters
38 have yet reared their heads in Maryland, this could soon change. Rising sea levels
39 would devastate the Chesapeake watershed, and hotter summers will force our state
40 birds the Baltimore Oriole to migrate out of state. As students, we recognize the
41 irrefutable correlation between the consumption of fossil fuels and global warming. A
42 large percentage of the power currently coursing through this building powering this
43 microphone originated this a greenhouse gas emitting plant. I come to you with the
44 support of over 3,000 Montgomery County students and residents who support this
45 resolution. By adopting this resolution, Montgomery County will add another notch in its

June 20, 2006



1 belt of accomplishments. Besides having a premier public school system, one of the
2 best in the Country, we will be the largest county purchaser of renewable energy in the
3 United States. Montgomery County will lead the clean energy revolution, taking huge
4 steps toward sustainability while protecting future generations from the devastating
5 effects of global warming. This month, after 12 years of hard work, I walked across the
6 stage and earned my diploma. In the fall, I will attend the University of Maryland. The
7 world is my proverbial oyster, and millions of doors will be opening up to me soon, but if
8 global warming continues uncurbed, those doors will only lead to more Katrinas,
9 flooding coastlines, and contempt for those who sat idle while something could have
10 been done. Please vote yes for the bill requiring 20% clean energy in Montgomery
11 County. Doing so is a vote for my future and the future of young people around the
12 world.

13
14 Council President Leventhal,
15 Thank you. Of course, Mr. Nazdin, we all know that I guess you were placed on the
16 Agenda now, but you actually testified on Agenda Item 13. That's no problem. You did a
17 great job. Thanks. Ms. Barth.

18
19 Carol Barth,
20 Good afternoon, my name's Carol Anne Barth. I'm President of the Northwood/Four
21 Corners Civic Association. I have a copy of my testimony, so I just want to hit a couple
22 of key points. Currently the site development and stormwater portion are the weakest
23 part of the Lead Standard. Basically you can get credit for just what we require
24 developers to do all the time here in Montgomery County. And you can get credit for
25 being close to mass transit which, if we're doing Smart Growth, we should be anyway.
26 So these are really critical factors, so, and certainly the Council has recognized this with
27 its own LID initiative. So I would suggest that you require builders to employ a minimum
28 number of LID techniques, and I'd be happy to help you flesh that out later. Also I would
29 disagree with one of your prior speakers, and say that the key to doing this successfully
30 is to do it as early as possible in the conceptual design phase. I base that on actual
31 experience when I was an Environmental Planner with Prince George's County. whether
32 you're looking at a single site or a subdivision, And I'll give you an example here of
33 Mother Jones Elementary School. where we mad just a few slight modifications, and
34 right off the bat we saved five acres of trees. It can be just that simple if you do it early
35 enough. But conventionally what happens is landscaping, stormwater management,
36 grading, fine grading, and site design of the landscaped areas are sort of the last thing
37 to be considered in the process. So it's exactly backwards from where we need it to be.
38 I would also say that you do need some kind of independent certification process.
39 Again, this comes from experience with working with the development process. It's just
40 very hard for people who have been doing something the same way for 20 years to turn
41 around and do it differently, even with the best and well intentions in the world. With my
42 experience, I saw all kinds of crazy things. A guy who decides the rain garden is the
43 best place to wash out the cement mixer. These things happen all the time. And so
44 there needs to be a way to ensure that you're really getting what you're trying to pay for
45 here. So I think you need certification, but I think you need to do beyond that. I applaud

June 20, 2006



1 you for what you said so far today about opening up a dialogue with all the parties. I
2 think you need to provide some actual training, and I think you might want to even
3 consider some kinds, in the future, of contractor recertification in the future. Just like
4 people get their stormwater card. You can have a card for green building. And you
5 might want to consider when it's necessary having standards for certain kinds of
6 services or suppliers, because again it's wonderful to have all of these things as a
7 system, but it doesn't mean anything if Bubba gets on the backhoe and does it all
8 wrong. And I always used to tell people that these kinds of technologies are simple.
9 They're not rocket science. Anybody can learn to do them. It's like baking a cake. But if
10 you bake with salt instead of sugar, it doesn't turn outright. They're also very easy to
11 mess up. Thank you.

12
13 Council President Leventhal,
14 Thank you. And Pam Lindstrom, I guess you're representing Ann Ambler?

15
16 Pam Lindstrom,
17 Yes. I'm representing [INAUDIBLE].Sierra Club.

18
19 Council President Leventhal,
20 Press your button, Pam.

21
22 Pam Lindstrom,
23 Ann Ambler had an emergency. She will be writing testimony, so she just read me her
24 main points, so I'm going to tell you her main points today. We all appreciate, we share
25 the appreciation to the ones of you who initiated this effort, but this is a field that's
26 changing rapidly, changing right in front of your noses. and therefore we think that it's
27 not even up to mainstream standards as it's currently written and needs some
28 strengthening. 20 Lead points is not enough, it's not even enough for a minimum Lead
29 certificate. Others, including local mayors, are already going beyond that. The AIA
30 apparently has written that buildings -- new buildings can use 50 to 80% less energy
31 than anticipated at little cost. This bill needs stronger requirements right from the
32 beginning, because you already know that you need to go farther than the current
33 requirements. And we suggest that the first step should be a requirement for at least 26
34 Lead points for a minimum Lead certificate. Two, the bill should specify that the Lead
35 measures must include measures for energy efficiency, that energy efficiency is a prime
36 concern of all of us, and a building should not be able to fulfill the requirements of the
37 county law unless it's energy-efficient. Three, county buildings should lead the way and
38 have a higher requirement than just 26 points for a minimum Lead certificate. They
39 should be required to reach at least a Lead Silver level. Four, after Clarksburg, it would
40 be reckless to leave compliance up to self-reporting by developers. There's a need for
41 trained inspection and audit to ensure that people do what they say they will do. And we
42 note that the Discovery building was billed as having a green roof and, in fact, has no
43 such thing. Five, there should -- builders should have to put up a bond to ensure
44 compliance with what they say they're going to do. And in conclusion, well, I guess I've
45 already said what the conclusion is. That we hear new things about the seriousness of

June 20, 2006



1 global climate change every day. Anybody who reads "Science Magazine" realizes that
2 every day there are new discoveries and the new discoveries are all that things are
3 happening faster and worse than we thought last week. This ball is already rolling -- and
4 the ball of energy-efficient and green buildings is already rolling, and we ask you to give
5 it a strong kick rather than just a gentle push. Thank you.

6
7 Council President Leventhal,

8 Great, thank you very, very much. I want to make a couple of comments. First of all, I
9 want to, I hope I didn't embarrass Mr. Nazdin, because his testimony is so strong and so
10 appropriate, and it was I think staff's misunderstanding what it was you signed up to
11 testify on, not your misunderstanding. You were in order, and our next Agenda Item is
12 on the 20% Clean Energy Resolution, and it's easy to understand from staff's
13 perspective how Item One is green buildings, Item Two is clean energy, or Item One is
14 green energy efficient buildings, and Item Two is clean energy. You can see how you
15 got put under Agenda Item 10 through 12 rather than Agenda Item 13, but I really want
16 to thank the Montgomery County Student Environmental Activists who came to me with
17 the suggestion that we take the threshold up to 20% and who have provided to us more
18 than 3,000 petition signatures in support of that goal for clean energy for Montgomery
19 County who have mobilized hundreds of High School students and educated hundreds
20 of High School students around the county about the threat of climate change and
21 global warming and who put on a terrific fun rally with live music and Gorilla Theater and
22 just a really terrific example of student organizing here in front of this building a couple
23 of months ago. So, Andrew Nazdin and all your colleagues, I see David Bronstein, who
24 I've been working closely with and all the other students. I really want to thank you for
25 your efforts, and I'd like to give the High School students a hand if we could.

26
27 [APPLAUSE]

28
29 Council President Leventhal,

30 With respect to the Green Buildings Bill, again, I really appreciate Pam Lindstrom's
31 testimony. This is a field that is changing rapidly. It's something we all need to be
32 educated about. One possibility I would throw out there is that perhaps we might
33 consider writing in law beginning with a relatively low threshold and then, after a year or
34 two, raising the threshold in the bill, so that there is some confidence in the
35 Environmental community that we want to head in that direction. My concern is -- first of
36 all, let me just cite what the U.S. Green Buildings Council has itself said. That is that
37 they do not generally like mandates. It is the U.S. Green Building's Council's hope that
38 private builders will voluntarily recognize the life cycle benefits. This is not a quote word
39 for word, but this is the point. And that they will build green because it's a smart thing to
40 do for them. So the U.S. Green Buildings Council generally has not called for
41 government mandates. We've not been lobbied in favor of government mandates by the
42 U.S. Green Buildings Council, and I am getting educated about this. But I'm very
43 concerned that if we start on day 1 with a Lead Silver requirement, when DPS has
44 never administered any program like this before, when the building industry has not
45 been mandated to do anything like this, and from what I've heard, when the T&E

June 20, 2006



1 Committee met with Montgomery County Public Schools and Montgomery College and
2 Park and Planning about the issues that they've confronted in trying to get Lead
3 certified, Lead Silver, et cetera, I don't want to jump into this and fail. I would like to start
4 at a point where we believe we can succeed and move up from there. So my intentions
5 are sincere. I've come to expect Wayne Goldstein to be critical of everything we do, so
6 calling this a pale green bill is pretty much in keeping with his whole approach to this
7 County Council. My intention is sincere. I really want us, as Pam Lindstrom said, and I
8 appreciate her comment, to kick-start this effort and to recognize the urgency of action
9 in response to the need to move away from fossil fuel use, to deal with climate change.
10 I'm very cognizant, as all my colleagues are, as Ms. Floreen said, of the urgency of
11 action here. This is a sincere effort. We want to get off to a good start, but we are
12 starting from zero in Montgomery County. We're not as far at long as many other
13 jurisdictions. So, what is the best way to do that, is the best way to do that to plunge in
14 with a very high threshold, or is it better to start by getting people educated? There is no
15 mandate today that builders in the county even look at a Lead checklist at all. If they
16 begin looking at a Lead checklist and they find that, and it doesn't have to be 20. I
17 mean, we can have this discussion, but if builders find that a threshold of 20 is way
18 easier than they thought, then they may say, my goodness, it would be easy for us to
19 get to 26. Who knew? Now that we have to look at the checklist, we understand. And
20 again the U.S. Green Buildings Council has said they don't like a mandates approach to
21 green buildings. That has not been the USGBC's approach. I very much appreciate the
22 sentiment, and I want to congratulate Ms. Floreen who's already introduced legislation
23 having to do with stormwater management for new construction. We haven't wrapped
24 that issue up yet. These are not simple issues, but our intent is sincere, and Ms. Barth,
25 your point about stormwater and low impact development is well-taken, and we'll take all
26 those issues up. There are no more lights on group B, and we've already heard from Mr.
27 Nazdin on a Agenda Item 13, but we also have Eric Coffman. Is he here? Eric?
28 Representing County Executive. That concluding the public hearing on Items 10 through
29 12. We are now on Agenda Item 13, a public hearing on a resolution to amend the
30 County's energy policy regarding clean and renewable energy and energy efficiency to
31 increase the amount of energy purchased from clean renewable sources. A
32 management and Fiscal Policy Committee work session is tentatively scheduled for
33 June 26th. Persons who wish to submit additional information for the Council's
34 consideration should do so by the close of business June 21st. We're already heard
35 from Mr. Nazdin. Mr. Coffman, please press the button and introduce yourself and
36 proceed with your testimony on Agenda Item 13.

37
38 Eric Coffman,

39 Hello, I'm Eric Coffman. I am speaking on behalf of the County Executive. I'm with the
40 Department of Environmental Protection. County Executive supports the proposed
41 resolution amending the County energy policy. In 2004, Montgomery County, serving as
42 a lead procurement agency of an 18-member aggregation group, spearheaded the
43 purchase of 5% of the group's electricity from a clean and renewable source locally
44 generated wind power. Regionally excuse me. This ranks among the largest purchases
45 of wind energy by a local government in the nation. The tangible benefits of this effort

June 20, 2006



1 include the avoidance of 42 million pounds of carbon dioxide, 95,000 pounds of nitrous
2 oxide, 1.4 pounds of mercury. This is equivalent to driving any of our vehicles -- not
3 driving any of our vehicles 36 million miles a year or the planting of 2.9 million trees. In
4 addition, Montgomery County received nitrous oxide reduction credit from the U.S.
5 Environmental Protection Agency for its wind power purchases. This was the first time
6 the EPA approved such a credit and remains one of the most cost effective controls to
7 date. Two years have passed since the county and its partners began purchasing
8 regional wind power. In this short time, the need of our nation to fundamentally shift the
9 energy paradigm away from fossil fuels has not changed. Electricity, particularly from
10 coal fired plants, is a leading source of air, water, and soil pollution. Potential effects of
11 this pollution are felt especially hard in Maryland, mercury has a potential to enter the
12 food chain. Damage in iconic economically important fisheries, nitrous oxide reaction in
13 the atmosphere to create, and I am out of time.

14
15 Council President Leventhal,

16 Okay, we have your written testimony. Thank you very much, Mr. Coffman.

17
18 Eric Coffman,

19 Thank you.

20
21 Council President Leventhal,

22 We look forward to working closely with you. That concludes the hearing on Agenda
23 Item 13. And thanks again to the Montgomery County Student Environmental Activists.
24 You are free to listen to the remainder of the public hearing, but we are done on the
25 environmental issues now.

26
27 Andrew Nazdin,

28 Thank you very much.

29
30 Council President Leventhal,

31 Thank you very much. Agenda Item 14 is a public hearing on Bill 25-06, Procurement
32 Exemptions, which would exempt the purchase of goods or services for certain county
33 sponsored recreational activities from the county procurement law, exempt the
34 purchase of entertainment services, including musical performances, from the county
35 procurement law, and generally amend the county procurement law. The Management
36 and Fiscal Policy Committee is scheduled to take up this matter on July 17th. Anyone
37 who wants to submit additional information for the Council to consider should do so by
38 the close of business on June 30th. And there are no witnesses on Agenda Item 14. Are
39 you standing up, sir, to speak to this matter?

40
41 Richard Melnick,

42 Yes, good afternoon Mr. Leventhal. My name's Richard Melnick, I'm with the Office of
43 the County Attorney. And I'm here in the event that you have any issues or comments or
44 questions that you'd like me to address regarding the bill.



June 20, 2006

1 Council President Leventhal,
2 Thank you Mr. Melnick. Ms. Praisner?

3
4 Councilmember Praisner,
5 I'd like an amendment to the legislation drafted that requires a report from the
6 Department or from the CAO annually of the use of this, including the times used and to
7 whom the contracts were awarded. Thank you.

8
9 Council President Leventhal,
10 And I'm not on the MFP Committee, but before it gets to the MFP Committee, I'd like
11 some thought from the County Attorney on how this interacts with our Local Small
12 Business Reserve Program.

13
14 Richard Melnick,
15 I also wanted to make one comment. I was noticing that the proposed bill, as drafted,
16 must have crossed paths with a previous or later iteration of the law, and I wanted to
17 make sure that I either got to you or one of your staff members the draft that would
18 clean up the legislation a little bit in that regard. It impacts Section F, which is not one of
19 the central portions of the proposed legislation. The language as it should read should
20 be "obtaining electricity, natural gas, and compressed natural gas under Executive
21 regulations." The version that was previously provided to the Council indicated changes
22 to a previous version of the law. I just wanted to make sure that you are aware of that. It
23 doesn't impact the substantive portions of what's being proposed in the bill. So, I just
24 wanted to bring that to your attention, and I'd be happy to provide you a cleaned-up
25 version of it for your reference.

26
27 Unidentified Speaker,
28 [INAUDIBLE]

29
30 Richard Melnick,
31 Sure, I'd be happy to, and if there's any other comments you'd like me to make, I'd be
32 happy to address them with you.

33
34 Council President Leventhal,
35 Okay, good. Thank you very much, Mr. Melnick, and that concludes Agenda Item 14.
36 Agenda Item 15 is a public hearing on the reorganization planned for the Office of the
37 Board of License Commissions which would incorporate the functions of that office into
38 the Department of Liquor Control. The composition and staffing of the Board would
39 remain unchanged. A joint meeting of the Public Safety and the Management and Fiscal
40 Policy Committees is tentatively scheduled for July 6th. Anyone who wants to submit
41 more information for the Council to consider should do so by the close of business June
42 30th. We have six speakers. Mr. George Griffin, Mr. Michael Gildea, Mr. Peter Frank,
43 Mr. Philip "Long," Mr. James Squeo, and Mr. Chris Curtis. George Griffin, please press
44 your button and begin.

June 20, 2006



George Griffin,

Thanks very much, Mr. President, members of the Council. We appreciate the opportunity to be here today to talk about this. We discussed it briefly during the budget sessions we had, but we're glad to have this opportunity at the public hearing. Dennis Theoharris who is the Executive Director of the Board of License Commissioners, and I are jointly representing the County Executive and CAO and Administration for this proposed reorganization. And we respectfully ask that the Council adopt it. I'll be respectful of your time. You have the packet with the information in it, and I want to give some time to the folks who have traveled to be here today to make their comments. I'll just make two brief comments or try and make two points in addition to the information you have in your packet. One, Mr. Leventhal, you mentioned in your introductory comments, this proposed reorganization plan I think it's important to outline what it is and what it is not. It only affects the County support staff to the Board of License Commissioners. We're talking about the full-time professional merit system employees who support the Board of License Commissioners. There will be no change which will require a change to state law. There will be no change to the Board of License Commissioners. Its composition and mission remains unchanged. Five members appointed by the County Executive and confirmed by the Council. That's the first point. The second point I think is Dennis and I would like to let everyone in the Council know that our staffs have worked closely, more closely over the last couple of years, and through that we identified the benefits of working together to coordinate services to the licensees. And that's how this proposal was generated. It came, it was generated through the staffs working together, and it's a bottom up proposal. We took this to the County Executive and the CAO and said it would improve our operations. And they endorsed it, but asked us to go out to various stakeholders and make sure, and vet it, and make sure they were comfortable with it. You'll see in your packet letters of support from the Board of License Commissioners and Chairman Gildea is here, he'll speak in a moment. The County's Alcohol Beverage Advisory Board, which is the Citizens Advisory Board, includes two licensees in the County. They unanimously endorsed it. You have a letter from their chairman, [Eric Elman], drawing the line against underaged alcohol abuse. The County Highway Safety Office, Dr. [Sonya Nueves], who we're working with to reduce substance abuse in the immigrant and minority communities. We also briefed the Maryland Restaurant Association, and had a conversation with the State Beer and Wine Retailers Association. I know Peter will speak about that a little later. Also we have done this coordinating with other County agencies, most particularly the Montgomery County Police Department. And I believe you have a letter from the Police Department stating their support. And they pledged to coordinate compliance checks with us and to remove the perception of any conflict of interest, the Police Department has agreed that they will perform all compliance checks on County-operated stores and the Board of License Commissioners staff will pick up some of their scheduled compliance checks on licensed establishments. So, with that, we look forward to working with you at the work session, and we're here to answer any questions, but I'll let the other folks speak.

Council President Leventhal,
Thank you, Mr. Gildea?

June 20, 2006



1
2 Michael Gildea,
3 Thank you Mr. Chairman and members of the County Council. On May 5th, I
4 communicated with Councilman Phil Andrews in his capacity as Chairman of the Public
5 Safety Committee urging support for this reorganization, and each member of the
6 County Council received a copy of that letter. It is common sense reorganization. From
7 our perspective this proposal has unanimous support of the Board of License
8 Commissioners. Three of its past Chairmen, [Al Crandall], [Elsworth Naylor], and my
9 distinguished colleague Sheila Boland, who is here today in the room, we are confident
10 that enforcement assets and responsibilities will remain intact and independent. We feel
11 actually we will gain a bit through the integration of the two agencies because we'll pick
12 up some important information technology assistance along with administrative and
13 other resources that will help us enhance our operations and enforcement efforts. From
14 a fiscal point of view, it will save the County taxpayers a small amount of money and
15 contract in a small way the county bureaucracy. I think not to be overlooked is the fact
16 that this does comport with what exists out there in other control jurisdictions with
17 respect to the unified approach that other agencies, both state and local have with
18 respect to DLC operations and BLC type operations of the jurisdictions. With that, I
19 commend the reorganization plan to you for your approval and will pass the mic.

20
21 Council President Leventhal,
22 Okay, thank you very much. I saw Peter Frank in the audience, but is someone else
23 representing the Montgomery County Retail Beer and Wine Association?

24
25 Councilmember Praisner,
26 No, he is.

27
28 Council President Leventhal,
29 Peter Frank is listed as a witness. Peter, do you want to join us and testify? Mike, could
30 you yield to Mr. Frank?

31
32 Michael Gildea,
33 Yes.

34
35 Peter Frank,
36 There were supposed to be five speakers, and now there's six.

37
38 Council President Leventhal,
39 Peter, please join us.

40
41 Peter Frank,
42 Thank you.

43
44 Council President Leventhal,



June 20, 2006

1 You're welcome, thanks for joining us. But you have to press your button and introduce
2 yourself.

3
4 Peter Frank,

5 My name is Peter Frank. I am a licensee for 50 years in Montgomery County, and I live
6 at 10001 Hall Road, Potomac, Maryland. I own Talbert's Ice and Beverage Service as
7 well. The proposed merger of the Board of License Commissioner and Department of
8 Liquor Control should be denied as it constitutes a gross conflict of interest. Contrary to
9 DLC's position that this is merely an action which conforms to the national model is
10 blatantly false. No other state, County, or local government in the United States retails
11 and wholesales beer, wine, and liquor as does Montgomery County. Under the
12 proposed plan, the Board of License Commissioners would be eliminated, replaced by a
13 Board within the DLC Licensing and Enforcement Division, administered by a Manager
14 II position hired by the Director of the Department of Liquor Control. Any licensee who is
15 deemed by any aspect of DLC to be a malcontent or problem may then become a target
16 for retaliatory action by threat to licensee renewal or other sanctions. These problems
17 may be as insignificant as delivery disputes or as significant as licensee location as it
18 relates to present or proposed DLC stores. Also, by consolidation, the Board under DLC
19 influence might be prompted to stretch an envelope to increase alcohol beverage sales
20 by expanding license issuance contrary to State Law Article 2(b). Enforcement of laws
21 and regulations in unlicensed DLC stores is significantly different than that which, with
22 that of licensed establishments. Primarily, the DLC suffers no penalty whatsoever when
23 a violation is detected. However, licensees can receive virtually unlimited fines and/or
24 suspensions or revocations of their license. Police enforcement of DLC stores is spotty,
25 at best, but the first attempt at checking the store being immediately broadcast to the
26 other DLC stores. Violations result only in limited administrative action against the
27 County employee cited. As a major change, a DLC staff employee, Manager II, under
28 the direction of Director of Department of Liquor Control would decide the direction of
29 policy, programs, and regulations. These were previously set by a Manager 1 position
30 under the direction of the Board of Licensed Commissioners. The resulting savings of
31 about \$70,000 overlooks the importance of the independence of BLC. Inasmuch as the
32 DLC monopoly is the largest direct competitor of all 300 plus off sale licensees, it should
33 not be the ultimate overseers of their regulation. The independence of both BLC and
34 DLC is critical for the successful administration of their programs as currently provided
35 by state law. Deny this reorganization. Thank you.

36
37 Council President Leventhal,
38 Thank you, Mr. Frank. Mr. Lang.

39
40 Philip Lang,

41 Mr. President, thank you for the opportunity of being here. My name is Phil Lang, and
42 I'm Chairman of the Oregon Liquor Control Commission, and it's a position appointed by
43 the Governor to set policy for the distribution of liquor in the state of Oregon. At the end
44 of prohibition 18 states and several counties throughout the country chose a control
45 model to follow rather than to be in a licensed state like the remainder of the states are.



June 20, 2006

1 The main difference between the license states and us is the fact that at some point
2 during the distribution of alcoholic beverage, the state or the County takes ownership of
3 one of those products. It has evolved over the years that some states have changed
4 slightly their method by allowing beer to be sold in stores and wine to be sold in stores
5 and some of us, like Oregon, only really control from the standpoint of sale and
6 distribution of distilled spirits, but we all have licensing authority except for one state
7 which temporarily has moved away from it and is looking at moving back into that. In the
8 State of Oregon, I have licensing, regulation, distribution, and enforcement. My
9 background is that I'm a retired Vice President of a property and casualty insurance
10 company. I served in the Oregon Legislature for 18 years. I was Speaker of the House.
11 So from a public policy standpoint, I've dealt with liquor issues for a long time. I guess,
12 after I retired from the property and casualty business, I was so foolish to agree to take
13 the appointment from our then Governor, Dr. Kitzhaber, who was wanting to make some
14 changes and emphasize more about the misuse and abuse of alcohol, over-sale to
15 people who were visibly intoxicated or sales to minors, and I think that probably we've
16 been fairly successful in redirecting the efforts of that. Alcohol is a dangerous product if
17 it's misused or abused. And because of that, I think that the emphasis of being able to
18 bring those functions of licensing and regulation and enforcement together and working
19 more as one unit is a benefit to the social community. I'd be glad to answer any
20 questions.

21
22 Council President Leventhal,
23 Thank you, Mr. Squeo.

24
25 James Squeo,
26 Thank you Mr. President, my name is Jim Squeo. I am the President/CEO of the
27 National Alcohol Beverage Control Association which represents all the controlled
28 states in the country, and I've been a lifelong resident of Montgomery County myself.
29 The licensing part of the Charter of the control systems exist in all the Department of
30 Liquor Controls with the exception of Maine. In 1994, they got out of it, and now they are
31 trying to get it back. Additionally, all the Canadian provinces are control, and they do
32 handle beer, wine, and spirits, and licensing is a part of their charter as well. And quite
33 frankly the control systems really began in the Scandinavian countries, and those
34 entities have a responsibility for not just the distribution and the sale but also the
35 licensing. It's been our experience as an association that, when the licensees work
36 more closely with the folks who distribute the product, there tends to be a stronger level
37 of communication. And when there are issues and problems, it tends to help them work
38 them out. I also think that the DLC will be in a better position to work more closely with
39 the licensees which are their customers, quite frankly, and be able to provide them with
40 some training that perhaps today is not as strong as they would like it to be.
41 Additionally, I think that part of the responsibility of the DLC has been and maintained,
42 and will maintain is to promote the responsibility of the licensee community to provide
43 lawful business practices, and I think this new reorganization will do that. In my career
44 with NABCA, the National Alcohol Beverage Control Association, which has been 33
45 years, there has been less movement away from leaving the licensing function.



June 20, 2006

1 However, some of the states have changed some of their retailing practices but not their
2 licensing practices. So it would be my recommendation as the President of NABCA that
3 you move forward with this reorganization. I think you'll find that it will streamline the
4 responsibilities and help the DLC work closer with their licensees. Thank you.

5
6 Council President Leventhal,
7 Mr. Curtis?

8
9 Chris Curtis,

10 Good afternoon, Mr. President and members of the Council. Thank you for the
11 opportunity to be here today. My name is Chris Curtis, and I'm here in support of
12 Agenda Item 15. Just to make sure that the record is clear, it indicates that I'm here on
13 behalf of the National Center For Alcohol Law Enforcement. And while that is my current
14 employer, that particular organization is funded partially with federal monies, and
15 therefore I'm prohibited from appearing before legislative or policy-making bodies. So
16 I'm here today as an individual and a former Director of the Virginia ABC Enforcement
17 and Licensing Bureau where I served for 30 years and had the honor of serving the last
18 10 years as Director of that particular department. Virginia, like Montgomery County, is
19 a control jurisdiction as you have just heard. And it participates in the marketing of
20 alcoholic beverages at both the wholesale and the retail level. The Virginia ABC Board
21 has a very similar organizational structure as is proposed here today before you with the
22 combining of the Office of the Board of License Commissioners as a division within the
23 Department of Liquor Control. In Virginia the ABC Board, in addition to being a
24 participant in the marketing of alcoholic beverages, also has a licensing function, an
25 enforcement function, a hearing function, and an education section. It participates in all
26 aspects of trying to control the use and distribution of alcoholic beverages in the
27 commonwealth. From a public policy perspective, it is my belief that, by coupling these
28 various functions together, you can as an organization be much more efficient, and
29 much more effective in the utilization of the taxpayers' monies in being an efficient
30 operation. And you also, by having all of these functions under the same roof, can bring
31 more focus on any issues, emerging trends in the alcoholic beverage control business.
32 The model utilized in Virginia is reflective of how many other control jurisdictions across
33 the country have decided to organize themselves. The model has served Virginia very
34 well for the past seven decades by housing all these functions in one place. And I would
35 encourage you to adopt the proposal before you today, and of course I'd be glad to
36 answer any questions that you might have.

37
38 Council President Leventhal,
39 Thank you very much. Mr. Frank, do we have copies of your testimony?

40
41 Peter Frank,
42 I have a copy here.

43
44 Council President Leventhal,
45 Could you give those to our staff, please?

June 20, 2006



1
2 Peter Frank,
3 Sure.

4
5 Council President Leventhal,
6 Not right now. I have a question for you, and others may have a question as well, but at
7 the conclusion of the hearing. Mr. Frank, I'm trying to understand your point about
8 competition and conflict of interest. Let me state it and see if I'm getting it correct, and
9 then you can correct me if I don't have it right.

10
11 Peter Frank,
12 I'd be happy to simplify it for you.

13
14 Council President Leventhal,
15 Let me state it. It helps me if I could. If I state it, then I understand whether I've got it or
16 not. First of all, I'm very familiar with your store, as you know, and you operate an
17 excellent beer and wine store on River Road in Bethesda, very well-known to me, and
18 it's Talbert's beer and wine, ice and beverage and all of that.

19
20 [LAUGHTER]

21
22 Peter Frank,
23 Are we on national television?

24
25 Council President Leventhal,
26 County television.

27
28 Multiple Speakers,
29 [INAUDIBLE]

30
31 Council President Leventhal,
32 Just giving you a little free publicity here on cable TV.

33
34 [LAUGHTER]

35
36 Council President Leventhal,
37 So from the standpoint of a beer and wine store owner, my question is, is it your
38 concern that because DLC operates its own retail establishments that sell beer, wine,
39 and liquor, that your concern on behalf of the beer and wine store industry is that DLC
40 might make regulatory decisions that would operate to the competitive disadvantage of
41 the DLC stores' competitors in the beer and wine store industry? Have I said that
42 correctly?

43
44 Peter Frank,



June 20, 2006

1 I think you grasp my intention here to bring to light exactly what you're citing. It is my --
2 the licensees biggest competitor who is also going to regulate their licenses.

3
4 Council President Leventhal,
5 Thank you, I just wanted to understand that clearly, and I appreciate it. Mr. Subin.

6
7 Councilmember Subin,
8 Thank you. And welcome, Mr. Speaker, glad to have you here. My question is a follow-
9 up actually to Mr. Leventhal's. And I'm not sure if this is going to be for Mr. Griffin or Mr.
10 Gildea. The functions of the BLC here don't change under the proposal.

11
12 George Griffin,
13 Correct.

14
15 Councilmember Subin,
16 My understanding is that the BLC is made up of five citizens?

17
18 George Griffin,
19 Correct.

20
21 Michael Gildea,
22 Correct.

23
24 Councilmember Subin,
25 And outside of the Administrative and Executive functions that the staff provides, the
26 policies are made by the BLC.

27
28 Michael Gildea,
29 Correct. Independent regulatory agency, and that doesn't change on this proposal.

30
31 Council President Leventhal,
32 Press your button, Mike.

33
34 Councilmember Subin,
35 Mr. Gildea, could you repeat?

36
37 Michael Gildea,
38 Yes, your statement is correct. The BLC retains its status as an independent regulatory
39 agency. It does not -- its responsibilities aren't somehow compromised or merged into
40 the DLC. The five commissioners are separate and apart as the Bureau of License
41 Commissioners.

42
43 George Griffin,
44 I think you're exactly right, Mr. Subin. What's being discussed here is where the County
45 support staff of the DLC will be housed. Years ago, they were in the Health Department.



June 20, 2006

1 The last 15 years, I guess they're been on their own, reporting directly to the CAO rather
2 than through a department. Although we do provide the BLC staff some I.T. support and
3 so forth.

4
5 Michael Gildea,

6 We see this organization as an administrative reorganization that will not, as I said from
7 the outset in my letter to the Councilman Andrews, it does not compromise the
8 enforcement aspects or enforcement of the DLC as we see it.

9
10 George Griffin,

11 Hopefully the licensees will benefit from not having the...

12
13 Councilmember Subin,

14 I'm not prepared to deal with speculation. So whether they will or they won't, I mean,
15 somebody's going to say, "Yes, the licensees will benefit from this," and some of the
16 licensees will say, "No, it's going to be worse." I'm sure the speaker could write out
17 everybody's testimony having come here from Oregon sight unseen. The County
18 Executive currently makes the appointments to the BLC.

19
20 Michael Gildea,

21 That's correct.

22
23 Councilmember Subin,

24 Who will make them under this plan?

25
26 Michael Gildea,

27 No change.

28
29 George Griffin,

30 County Executive, confirmed by the Council, as stated by state law.

31
32 Councilmember Subin,

33 Does the DLC now or has it historically ever had any recommendations to the BLC on
34 issues of the granting or withholding of licenses?

35
36 Michael Gildea,

37 No. Not during my tenure on the Board.

38
39 Councilmember Subin,

40 Are these rolling appointments to the Board or are they all at one time?

41
42 Michael Gildea,

43 They're rolling.

44
45 Councilmember Subin,



June 20, 2006

1 Rolling. So then this Executive can have potentially one or two appointments now, and
2 then the Executive -- the next Executive will have some others in a year or two or three.

3
4 Michael Gildea,
5 Entirely possible.

6
7 George Griffin,
8 Four-year terms?

9
10 Michael Gildea,
11 Yeah, it's a four-year term.

12
13 Councilmember Subin,
14 So then you could have on that Board appointees from 2 different Executives.

15
16 Michael Gildea,
17 That's true. And it's also bipartisan. Not bipartisan, but the law requires that the five-
18 member Board be three democrats, two republican.

19
20 Councilmember Subin,
21 I wish it were so.

22
23 George Griffin,
24 Three democrats.

25
26 Councilmember Subin,
27 Three of 1 party...

28
29 Multiple Speakers,
30 [INAUDIBLE]

31
32 Councilmember Subin,
33 We could always make that an amendment to the bill.

34
35 [LAUGHTER]

36
37 Michael Gildea,
38 Speaking as former party Chairman obviously. With all due deference to my friend
39 Howie Denis..

40
41 Councilmember Subin,
42 But no conflict of interest, Mr. Gildea. Okay. And that won't change under this bill.

43
44 Michael Gildea,
45 No.

June 20, 2006



1
2 Unidentified Speaker,
3 [INAUDIBLE]

4
5 Councilmember Subin,
6 That's an important point. So then even if the director of the DLC wanted to make some
7 changes on the appointment authorities or the mix or what the BLC could or could not
8 do, neither the head of the DLC nor the Executive could make those changes. It would
9 have to come through the state legislature. Is that a local bill or a state bill?

10
11 Unidentified Speaker,
12 [INAUDIBLE]

13
14 Councilmember Subin,
15 That's what I thought. But the change to article 2(b) could be a local bill or it could be a
16 state bill.

17
18 George Griffin,
19 Yes.

20
21 Councilmember Subin,
22 But right now, unless there were some action to make it a local bill, it would be a state
23 bill.

24
25 Michael Gildea,
26 That's correct.

27
28 Councilmember Subin,
29 Let me make sure I get this straight. Nothing changes but the administrative authorities.
30 BLC, Independent Board, appointed by the Executive, rolling terms, authorities come
31 from the state, and any changes would then have to be at the state level, could be a
32 local bill but, as it stands now, would be a state bill and that's the only way you could
33 change the authorities of the either the BLC or DLC.

34
35 Michael Gildea,
36 That's correct.

37
38 Councilmember Subin,
39 Have there been any bills to give the DLC that additional authority?

40
41 Michael Gildea,
42 Well, there was a bill recently signed, well, not in terms of the authority of the agency. I
43 mean, there was a local bill dealing with our authority, our discretionary authority, that
44 was proposed by us and sponsored as a local bill and signed by the Governor.



June 20, 2006

1 Councilmember Subin,
2 But that was for the BLC, it wasn't to give the DLC additional...

3
4 Michael Gildea,
5 No, you're exactly correct.

6
7 Councilmember Subin,
8 And the bill specifically enumerates that MCPD would enforce the laws in the County
9 liquor stores and not the BLC.

10
11 George Griffin,
12 Yeah. Well, there's no bill, I mean here's a proposal, but you're correct. We have an
13 agreement with the police department, I think they've sent a letter saying yes, they've
14 agreed that they would make the compliance checks in County stores, As it is now the
15 BLC staff and the County Police share the duties of making compliance checks, and the
16 Police Department has agreed they will pick up all the County stores and BLC will take
17 some of the County Police's other functions.

18
19 Councilmember Subin,
20 So then, under the plan, the BLC would not be going into DLC store.

21
22 Michael Gildea,
23 That's correct.

24
25 Councilmember Subin,
26 All right, thank you.

27
28 Council President Leventhal,
29 Ms. Floreen?

30
31 Councilmember Floreen,
32 Thank you. That organizational description was helpful, but I am still not clear on what
33 happens to the Independent Board.

34
35 George Griffin,
36 Nothing.

37
38 Councilmember Floreen,
39 Well, right now it's directly under the Chief Administrative Officer. Correct? Where does
40 it go under the, in the new situation?

41
42 George Griffin,
43 The Board's not under the Chief Administrative Officer. The Board is an Independent
44 Board.



June 20, 2006

1 Councilmember Floreen,
2 Right. But under the current organizational structure, at least as shown to us, the
3 Board's directly under the office. It is under the CAO. Where does the Board go under
4 this change? It's not shown on the reorganization chart.

5
6 George Griffin,
7 I'm sorry. Dennis just told me I had to turn the page over. What is shown as being under
8 the Chief Administrative Officer is the office for the Board of License Commissioners
9 which is their support staff, and that, they do report directly to the CAO. They would
10 become a division within the Department of Liquor Control. We have two divisions now,
11 Operations and Administration. There would be a third, which would be licensing,
12 regulatory, and education.

13
14 Councilmember Floreen,
15 So, on the chart that we have, there's a section called enforcement, licensing, and
16 server training. Is that...

17
18 George Griffin,
19 Yes.

20
21 Councilmember Floreen,
22 And is that where, here does the Board, though, the Independent Board, fit into this new
23 structure?

24
25 Dennis Theoharris,
26 [INAUDIBLE] That would remain under the independent commission under the County
27 Executive. That would not change. The only thing that is changing now is that there
28 would no longer be a support staff office called the OBLC, which you see in that chart,
29 and that's the existing... I'm sorry. That's the existing structure which is the Office of the
30 Board of License Commissioners. That will go away. But the commissioners
31 independent body will continue to remain part of the, under the Executive Branch as a
32 commission. That was not shown in the chart because that did not change. The
33 commissioners will remain independent. This is just the support staff. That's why it's
34 called OBLC. Office for the Board of License Commissioners.

35
36 Councilmember Floreen,
37 And then I'm just trying to understand how they will relate to the department.

38
39 Dennis Theoharris,
40 Well, now it'll, the support staff will now become, which you have in another attachment,
41 will become a division. Will become a division. But the commissioners will again be
42 independent, will not be part of liquor control. They will make the commissions, for lack
43 of a better description, giveth and taketh and take those decisions. The support staff just
44 carries it out. So instead of being an independent agency it will now just be a Division of
45 Liquor Control to carry out the orders.

June 20, 2006



Councilmember Floreen,
Okay, then who's going to support the Board? If they don't have any staff...

Dennis Theoharris,
Oh, no. That staff is moving as a Division of Liquor Control. They're going to be the Enforcement, Licensing, and Server Training Division. That's where the staff is going.

Councilmember Floreen,
So there's sort of a dotted line connection to the Board? I mean, there's no showing of that support for the Board.

Dennis Theoharris,
You're correct, yes. The Board still gets the support staff of the current office of the Board of License Commissioners, so in reality there is a connection as far as support staff to the commissioners.

Councilmember Floreen,
Well, doesn't that weaken their independence if they don't have people within their bailiwick, as it were, under their authority to support their whatever it is they choose to, whatever initiatives they choose to undertake?

Dennis Theoharris,
No, because the commissioners decide policy, and it's just whether...

Councilmember Floreen,
Who's going to listen to it if there's no staff?

Dennis Theoharris,
With all due respect, there is staff. It's the division. But it's a new division. That division was not there before.

Councilmember Floreen,
I just ask that, when the Committee takes this up, that it asks those questions...

Unidentified Speaker,
Okay.

Councilmember Floreen,
...and get answers. It's not clear to me what the problem is that you're solving.

George Griffin,
The CAO has an obligation to provide the Board with adequate staffing. In years past, that staff was housed in the Health Department. Now it's in its own office, and this would be a division in our department. But the staffing for the CAO has an obligation to provide

June 20, 2006



adequate staffing to the Board of License Commissioners, and the Board remains unchanged. So it's just where the County, where the merit system employees are housed, whether on a stand-alone office housed in our building or if they're within our department. And part of the, how this developed is our staffs worked together over the last several years. About half the calls that we receive, the Department of Liquor Control, are meant for the Board of License Commissioners, and a lot of those are from licensees in the County. A lot of the public doesn't understand why the public policy folks are divorced from the operational folks. And we're both working with the licensees and with -- by coordinating this better, I think we'd be able to serve the customer better, that's how this developed.

Council President Leventhal,
Could I request to my colleagues that we let some of these details play out in the joint Committee hearing?

Councilmember Floreen,
Well, I would like to again, the issue of what the problem is that this is solving be addressed, because I don't see how the Independent Board is supported by this new arrangement.

Council President Leventhal,
Let me just observe now we have applicants for Planning Board Chair who are 40 minutes late waiting for their first interview. There are five of them. Some of the interviews with Planning Board Chair applicants have taken an hour and a half. We're going to complete all of the interviews tonight. Again, there are five of them. Some of the interviews have taken an hour and a half. You do the math. It's 10 minutes after 3. There are lights on. Ms. Floreen still has the floor. We have lights on from two members of the Public Safety Committee who I would hope might be able to address these issues in the Public Safety Committee. And of course any Councilmember is welcome to attend the Joint Committee meeting. And Mr. Andrews is on both Committees.

Councilmember Floreen,
A lucky man. Those are my questions. I don't see that in the material, and I think it's incumbent on you all to demonstrate how the Independent Board continues to be supported within the rearrangement. And as I said, it's not clear to me what problem this is fixing, so maybe you can spell that out for me.

Council President Leventhal,
Mr. Subin has turned his light off which is much appreciated by the Council President.
Mr. Andrews?

Councilmember Andrews,
Thank you all for testifying. [LAUGHTER] I think this is a useful public hearing. Thank you for coming all the way from Oregon, Mr. Speaker, and for your years of service. And to Dennis Theoharris, this may be the last time we see you at the table, maybe not, but

June 20, 2006



1 is getting there. Thank you for all of your services as well. The Joint Public Safety and
2 MFP Committee meeting will take place on July 6th. And since it's scheduled for 10:45
3 a.m. in the morning, I think I can guaranteed that the proposed reorganization will get
4 very sober consideration.

5
6 Unidentified Speaker,
7 Thank you.

8
9 Council President Leventhal,
10 There we go.

11
12 Multiple Speakers,
13 [INAUDIBLE]

14
15 Council President Leventhal,
16 We have one more item. That concludes Agenda Item 15. Thank you all very much.
17 We're going to vote after the conclusion of this hearing for which there are no witnesses
18 on Agenda Item 16, which is a public hearing on a special appropriation to the FY '06
19 Capital Budget and amendment to the FY '05 through 2010 Capital Improvements
20 Program of the Montgomery County Fire and Rescue Service for fire apparatus
21 replacement in the amount of \$800,000. And the Public Safety Committee recommends
22 approval. Chairman Andrews or Mr. Knapp, lead member for Fire and Rescue, did you
23 want to comment on this? You don't have to.

24
25 Councilmember Knapp,
26 It's very straightforward. This just follows up on the issue raised by Mr. Perez in our
27 consideration of the budget to include an additional ladder truck for Takoma Park and
28 Silver Spring, And so we're just following up to make sure we've closed up all the
29 loopholes from our budget.

30
31 Council President Leventhal,
32 When the agenda says source contribution, contribution from what?

33
34 Councilmember Knapp,
35 The sale of the Fire Station in Silver Spring.

36
37 Council President Leventhal,
38 Very good. There are no speakers for this hearings are concluded.

39
40 Councilmember Knapp,
41 Correct, by the volunteers.

42
43 Council President Leventhal,



June 20, 2006

Mr. Knapp, well, the Public Safety Committee has moved this item, it comes to us from the Public Safety Committee. Those in favor of appropriating the \$800,000 for a new fire truck will signify by raising their hands.

Councilmember Praisner, Nancy and Howie aren't moving

Council President Leventhal,
And it is unanimous. Okay. We are immediately retiring to the third floor conference room. And it is my intent that we will complete all five interviews with all five Planning Board Chairman applicants on this date today.